

Short title, extent and commencement

*An Act to consolidate and amend the laws relating to the levy and collection of tax on the sale ¹[****] of certain goods in the State of Maharashtra.*

WHEREAS it is expedient to consolidate and amend the laws relating to the levy and collection of tax on the sale ¹[****] of certain goods in the State of Maharashtra; it is hereby enacted in the Fifty-third Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement :- (1) This Act may be called the Maharashtra Value Added Tax Act, 2002.

(2) It extends to the whole of the State of Maharashtra.

²[(3) It shall come into force on the 1st April, 2005]

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1. These words “or purchase” were deleted by Mah. Act No. XLII of 2017, dated the 29th May 2017.
 2. Sub-section (3) substituted by Mah. Act No. XIV of 2005, w.e.f. 1.4.2005

Definitions

2. Definitions :- In this Act, unless the context otherwise ,-

(1) “agriculture”, with all its grammatical variations and cognate expressions, includes floriculture, horticulture, the raising of crops, grass or garden produce, and also grazing; but does not include dairy farming, poultry farming, stock breeding, the mere cutting of wood or grass, gathering of fruit, raising of man-made forests or rearing of seedlings or plants;

Explanation.— For the purposes of this clause and clause (4), the expression “forest” means the forest to which the Indian Forest Act, 1927, (XXVI of 1927) in its application to the State of Maharashtra, applies;

(2) “agriculturist” means a person who cultivates land personally, for the purpose of agriculture;

¹[(3) “appointed day” means the 1st April, 2005];

²[(3-a) “ brand name “ when used in the Schedule means a brand name, (whether registered or not), that is to say, a name or a mark such as a symbol, monogram, label, signature or invented words or any writing which is used in relation to a product for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and some person using such name or mark with or without any indication of the identity of that person;]

(4) “business” includes, -

- (a) any service;
- (b) any trade, commerce or manufacture;
- (c) any adventure or concern in the nature of service, trade, commerce or manufacture;

whether or not the engagement in such service, trade, commerce, manufacture, adventure or concern is with a motive to make gain or profit and whether or not any gain or profit accrues from such service, trade, commerce, manufacture, adventure or concern.

Explanation.— For the purpose of this clause, -

(i) the activity of raising of man-made forest or rearing of seedlings or plants shall be deemed to be business;

(ii) any transaction of sale or purchase of capital assets pertaining to such service, trade, commerce, manufacture, adventure or concern shall be deemed to be a transaction comprised in business;

(iii) sale or purchase of any goods, the price of which would be credited or, as the case may be, debited to the profit and loss account of the business under the double entry system of accounting shall be deemed to be transactions comprised in business;

(iv) any transaction in connection with the commencement or closure of business shall be deemed to be a transaction comprised in business;

(5) “capital asset” shall have the same meaning as assigned to it, from time to time, in the Income Tax Act, 1961 (43 of 1961), but the said expression shall not include jewellery held for personal use or property not connected with the business;

(6) “Commissioner” means the person appointed to be the Commissioner of Sales Tax for the purposes of this Act;

(7) “to cultivate personally”, with its grammatical variations and cognate expressions, means to carry on any agricultural operation on one’s own account, -

(a) by one’s own labour, or

(b) by the labour of one’s own family, or

(c) by servants on wages payable in cash or kind (but not in crop share), or by hired labour under one’s personal supervision or the personal supervision of any member of one’s family.

Explanation I.— A widow or a minor or a person who is subject to any physical or mental disability or is a serving member of the armed forces of the Union, shall be deemed to cultivate land personally if it is cultivated by her or his servants or by hired labour.

Explanation II.— In the case of a Hindu Undivided Family, land shall be deemed to be cultivated personally, if it is cultivated by any member of such family;

(8) “dealer” means any person who, for the purposes of or consequential to his engagement in or, in connection with or incidental to or in the course of, his business buys or sells, goods in the State whether for commission, remuneration or otherwise and includes, -

(a) a factor, broker, commission agent, del-credere agent or any other mercantile agent, by whatever name called, who for the purposes of or consequential to his engagement in or ³[in connection with or incidental to or] in the course of the business, buys or sells any goods on behalf of any principal or principals whether disclosed or not;

(b) ⁴[an auctioneer who sells or auctions goods whether acting as an agent or otherwise or, who organises the sale of goods or conducts the auction of goods whether or not he has the authority to sell the goods] belonging to any principal whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal;

(c) a non resident dealer or as the case may be, an agent, residing in the State of a non-resident dealer, who buys or sells goods in the State for the purposes of or consequential to his ⁵[engagement in or in connection with or incidental to or in the course of, the business],

(d) any society, club or other association of persons which buys goods from, or sells goods to, its members;

Explanation.— For the purposes of this clause, each of the following persons, bodies and entities who ⁶[sell any goods] whether by auction or otherwise, directly or through an agent for cash, or for deferred payment, or for any other valuable consideration shall, notwithstanding anything contained in clause (4) or any other provision of this Act, be deemed to be a dealer, namely:-

(i) Customs Department of the Government of India administering the Customs Act, 1962 (52 of 1962);

(ii) Departments of Union Government and any Department of any State Government;

(iii) Local authorities;

(iv) Port Trusts;

⁷[(iv-a) Public Charitable Trust;]

(v) Railway Administration as defined under the Indian Railways Act, 1989 (24 of 1989) and Konkan Railway Corporation Limited;

(vi) Incorporated or unincorporated societies, clubs or other associations of persons;

(vii) Insurance and Financial Corporations, institutions or companies and Banks included in the Second Schedule to the Reserve Bank of India Act 1934 (II of 1934);

(viii) Maharashtra State Road Transport Corporation constituted under the Road Transport Corporation Act, 1950 (LXIV of 1950);

(ix) Shipping and construction companies, Air Transport Companies, Airlines and Advertising Agencies;

(x) any other corporation, company, body or authority owned or constituted by, or subject to administrative control, of the Central Government, any State Government or any local authority:

⁸[* * *]

Exception I.— An agriculturist who sells exclusively agricultural produce grown on land cultivated by him personally, shall not be deemed to be a dealer within the meaning of this clause.

Exception II.— An educational institution carrying on the activity of manufacturing, buying or selling goods, in the performance of its functions for achieving its objects, shall not be deemed to be a dealer within the meaning of this clause.

Exception III.— A transporter holding permit for transport vehicles (including cranes) granted under the Motor Vehicles Act, 1988 (5 of 1988), which are used or adopted to be used for hire or reward shall not be deemed to be a dealer within the meaning of this clause in respect of sale or purchase of such transport vehicles or parts, components or accessories thereof.

(9) “declared goods” means declared goods as defined, from time to time, in the Central Sales Tax Act, 1956 (74 of 1956);

⁹[(10) “document” includes electronic record as defined in the Information Technology Act, 2002 (16 of 2002);]

(11) “earlier law” means any of the following laws, that is to say,-

(i) The Bombay Sales of Motor Spirit Taxation Act, 1958 (Bom. LXVI of 1958),

(ii) The Bombay Sales Tax Act, 1959 (Bom. LI of 1959),

¹⁰[(iii) * * * deleted]

(iv) The Maharashtra Sales Tax on the Transfer of the Right to use any goods for any Purpose Act, 1985 (Mah. XVIII of 1985) and

(v) The Maharashtra Sales Tax on the Transfer of Property in Goods involved in the Execution of Works Contract (Re-enacted) Act, 1989 (Mah. XXXVI of 1989),

each of them as amended, from time to time, and includes enactments which have validated anything done or omitted to be done under any of the above-mentioned laws;

(12) “goods” means every kind of movable property not being newspapers, actionable claims, money, stocks, shares, securities or lottery tickets and includes live stocks, growing crop, grass and trees and plants including the produce thereof including property in such goods attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale;

(13) “importer” means a dealer who brings any goods into the State or to whom any goods are dispatched from any place outside the State;

(14) “legal representative” shall have the meaning assigned to it in clause (11) of section 2 of the Code of Civil Procedure, 1908 (V of 1908);

(15) “manufacture”, with all its grammatical variations and cognate expressions includes producing, making, extracting, altering, ornamenting, finishing or otherwise processing, treating or adapting any goods;

^{10a}[(15A) “motor spirit” means,-

- (a) High Speed Diesel Oil;
- (b) Aviation Turbine Fuel (Duty paid);
- (c) Aviation Turbine Fuel (Bonded);
- (d) Aviation Gasoline (Duty paid);
- (e) Aviation Gasoline (Bonded);
- (f) Petrol;

^{10b}[and] any other product as the State Government may, from time to time, notify in the *Official Gazette*;

(16) “non-resident dealer” means a dealer who effects purchases or sales of any goods in the State, but who has no fixed place of business ¹¹[* * *] in the State;

(17) “person” includes an individual, any State Government, the Central Government, any company or society or club or association or body of individuals whether incorporated or not, and also a Hindu Undivided Family, a firm and a local authority and every artificial juridical person not falling within any of the preceding descriptions;

^{11a}[(17A) “petroleum products” means,-

- (a) Superior Kerosene Oil (SKO);
- (b) Liquefied Petroleum Gas (LPG);
- (c) Furnace Oil (FO);
- (d) Light Diesel Oil (LDO);
- (e) Raw Naptha or Naptha;
- (f) Low Sulphur Heavy Stock;

^{11b}[and] any other product as the State Government may, from time to time, notify in the *Official Gazette*;

(18) “place of business” includes a warehouse, godown or other place where a dealer stores his goods and any place where the dealer keeps his books of accounts;

(19) “prescribed” means prescribed by the rules or by any notification;

(20) “purchase price” means the amount of valuable consideration paid or payable by a person for any purchase made including any sum charged for anything done by the seller in respect of the goods at the time of or before delivery thereof, other than the cost of insurance for transit or of installation, when such cost is separately charged;

Explanation I.— The amount of duties levied or leviable on the goods under the Central Excise Act, 1944, (I of 1944) or the Customs Act, 1962 (52 of 1962) or the Bombay Prohibition Act, 1949 (Bom. XXV of 1949) shall be deemed to be part of the purchase price of such goods, whether such duties are paid or payable by or on behalf of the seller or the purchaser or any other person.

Explanation II.— Purchase price shall not include tax paid or payable by a person in respect of such purchase.

Explanation III.— Purchase price shall include the amount paid by the purchaser by way of deposit whether refundable or not which has been paid whether by way of a separate agreement or not, in connection with or incidental or ancillary to, the said purchase of goods.

¹²[**Explanation IV. deleted w.e.f. 1-7-2007**]

(21) “registered dealer” means a dealer registered under this Act;

(22) “resale” means a sale of purchased goods-

(i) in the same form in which they were purchased, or

(ii) without doing anything to them which amounts to, or results in, a manufacture, and the word “resell” shall be construed accordingly;

(23) “rules” means the rules made under this Act;

(24) “sale” means a sale of goods made within the State for cash or deferred payment or other valuable consideration but does not include a mortgage, hypothecation, charge or pledge; and the words “sell”, “buy” and “purchase”, with all their grammatical variations and cognate expressions, shall be construed accordingly;

Explanation.— For the purposes of this clause,-

(a) a sale within the State includes a sale determined to be inside the State in accordance with the principles formulated in section 4 of the Central Sales Tax Act, 1956 (74 of 1956);

(b)(i) the transfer of property in any goods, otherwise than in pursuance of a contract, for cash, deferred payment or other valuable consideration;

(ii) the transfer of property in goods (whether as goods or in some other form) involved in the execution of a ¹³[¹⁴[works contract including], an agreement for carrying out for cash, deferred payment or other valuable consideration, the building, construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, modification, repair or commissioning of any movable or immovable property;]

(iii) a delivery of goods on hire-purchase or any system of payment by instalments;

(iv) the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

(v) the supply of goods by any association or body of persons incorporated or not, to a member thereof for cash, deferred payment or other valuable consideration;

(vi) the supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service is made or given for cash, deferred payment or other valuable consideration;

¹⁵[(vii) * * *]

shall be deemed to be a sale.

(25) “sale price” means the amount of valuable consideration paid or payable to a dealer for any sale made including any sum charged for anything done by the seller in respect of the goods at the time of or before delivery thereof, other than the cost of insurance for transit or of installation, when such cost is separately charged.

Explanation I.— The amount of duties levied or leviable on goods under the Central Excise Act, 1944 (1 of 1944) or the Customs Act, 1962 (52 of 1962) or the Bombay Prohibition Act, 1949 (Bom. 25 of 1949), shall be deemed to be part of the sale price of such goods, whether such duties are paid or payable by or on behalf of, the seller or the purchaser or any other person.

Explanation II.— Sale price shall not include tax paid or payable to a ¹⁶[seller] in respect of such sale.

Explanation III.— Sale price shall include the amount received by the seller by way of deposit, whether refundable or not, which has been received whether by way of a separate agreement or not, in connection with or incidental or ancillary to, the said sale of goods;

¹⁷[**Explanation IV. deleted w.e.f. 1-7-2007**]

(26) “Schedule” means the Schedule appended to this Act.

(27) “service” means any service as may be notified by the State Government, from time to time, in the **Official Gazette**;

(28) “the State” means the State of Maharashtra;

(29) “tax” means a ¹⁸[sales tax or purchase tax leviable] or as the case may be, payable, under this Act and includes any amount payable by way of composition;

(30) “tax-free goods” means goods against which the rate of sales tax is shown to be NIL in the Schedule and “taxable goods” means goods other than tax free goods;

(31) “Tribunal” means the Maharashtra Sales Tax Tribunal constituted under section 11;

(32) “turnover of purchases” means the aggregate of the amounts of purchase price paid and payable by a dealer in respect of any purchase of goods made by him during a given period, after deducting the amount of,-

(a) purchase price, if any, refunded to the dealer by the seller in respect of any goods purchased from the seller and returned to him within the prescribed period; and

(b) deposit, if any, refunded in the prescribed period to the dealer by the seller, in respect of any goods purchased by the dealer.

Explanation I.— In respect of goods delivered on hire-purchase or any system of payment by instalment or in respect of the transfer of the right to use any goods for any purpose (whether or not for a specified period) the amounts of purchase price paid or payable during a given period shall mean the amounts paid or, as the case may be, due and payable during the said period.

¹⁹[(**Explanation II**) * * *]

(33) “turnover of sales” means the aggregate of the amounts of sale price received and receivable by a dealer in respect of any sale of goods made during a given period after deducting the amount of -

(a) sale price, if any, refunded by the seller, to a purchaser, in respect of any goods purchased and returned by the purchaser within the prescribed period; and

(b) deposit, if any, refunded in the prescribed period, by the seller to a purchaser in respect of any goods sold by the dealer.

Explanation I.— In respect of goods delivered on hire-purchase or any system of payment by instalment or in respect of the transfer of the right to use any goods for any purpose (whether or not for a specified period) the amounts of sale price received or receivable during a given period shall mean the amounts received or as the case may be, due and payable during the said period;

²⁰**[(Explanation II) * * *]**

Explanation III.— Where the registration certificate is cancelled, the amounts of sale price in respect of sales made before the date of the cancellation order, received or receivable after such date, shall be included in the turnover of sales during a given period;

(34) “vehicle” ²¹[means] a goods carriage as defined in the Motor Vehicles Act, 1958 (59 of 1958); and

(35) “year” means the financial year.

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1. Clause (3) substituted by Mah. Act No. XIV of 2005, w.e.f. 1-4-2005.
 2. Clause (3-a) inserted by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006.
 3. These words were inserted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.
 4. This portion was substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.
 5. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.
 6. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.
 7. Clause (iv-a) inserted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.
 8. Proviso deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.
 9. Clause (10) substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.
 10. Sub-clause (iii) deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.
 - 10a. This clause (15A) was inserted by Mah. Act No. VIII of 2012 dated the 25th April 2012 w.e.f.1.4.2005
 - 10b. This word was substituted for the word “or” by Mah. Act No. VIII of 2013 dated the 20th April 2013 w.e.f.1.5.2013.
 11. These words “or residence” were deleted by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007.
 - 11a. This clause (17A) was inserted by Mah. Act No. VIII of 2012 dated 25th April 2012 w.e.f.1.4.2005.

11b. This word was substituted for the word “or” by Mah. Act No. VIII of 2013 dated the 20th April 2013 w.e.f.1.5.2013.

12. .Explanation IV was added and shall be deemed to have been added w.e.f. 1st April, 2005 by Mah. Act No. XXXII of 2006, dt. 5.8.2006. **and again** Explanation IV was deleted by Mah. Act No. XIX of 2007 dt. 27.7.2007 w.e.f. 1st July, 2007. Prior to deletion the Explanation IV was read as under :-

“Explanation IV.—The amount of valuable consideration paid or payable by a dealer for the purchase of drugs specified in entry 29 of Schedule C shall be the maximum retail price printed on the package containing the drugs;”

13. These words were substituted for the words “works contract” by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006.

14. **Again** these words were substituted for the words “works contract namely” and shall be deemed to have been substituted w.e.f. 20th June, 2006 by Mah. Act No. XXV of 2007, dt. 6.8.2007. s.6(2).

15. Paragraph (vii) deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

16. This word was substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

17. Explanation IV was added by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005 **and again** Explanation IV was deleted by Mah. Act No. XIX of 2007 dt. 27.7.2007 w.e.f. 1st July, 2007. s.2(b). Prior to deletion the Explanation IV was read as under :-

“Explanation IV.—The amount of valuable consideration paid or payable to a dealer for the sale of Drugs specified in entry 29 in Schedule C shall be the maximum retail price printed on the package containing the Drugs.”

18. These words were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005 and again inserted by Mah. Act No. VIII of 2012 dated 25th April 2012 w.e.f.1.5.2012. Prior to substitution read as:”sales tax leviable”

19. Explanation II was deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005

20. Explanation II was deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005

21. This word was substituted for the word “includes” by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005

Incidence of Tax

CHAPTER-II

LEVY AND INCIDENCE OF TAX.

3. Incidence of Tax :-

¹[(1) *****]

(2) A dealer ²[whose turnover of all sales of goods], during the year commencing on the appointed day or any year subsequent thereto, first exceeds the relevant limit, specified in sub-section (4), shall, until such liability ceases under sub-section (3), be liable to pay tax under this Act with effect from the 1st day of April of the said respective year:

Provided that, a dealer shall not be liable to pay tax in respect of 3[such sales ⁴[***]] as take place during the period commencing on the 1st day of April of the said respective year upto the time when his ⁵[turnover of sales ⁴[****]], as computed from the 1st day of April of the said respective year, does not exceed the relevant limit applicable to him under sub-section (4).

(3) Every dealer who has become liable to pay tax under this Act, shall continue to be so liable until his registration is duly cancelled; and upon such cancellation his liability to pay tax, other than tax already levied or leviable, shall remain ceased until his ⁶[turnover of sales ^{6a}[*****]] again first exceeds the relevant limit specified in sub-section (4) or, as the case may be, until he becomes liable to pay tax under 7[sub-sections], (8) or (9).

(4) For the purposes of this section, the limits of 8[turnover] shall be as follows :-

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|--|---|
| | in the case of a dealer, who is an importer, and the |
| (a) Limit of 8[turnover] Rs. 1,00,000.— | value of taxable goods sold or purchased by him during the year is not less than Rs. 10,000. |
| (b) ⁹ [Limit of 8[turnover] Rs. ^{8a} [10,00,000].— | in any other case, where the value of taxable goods sold or purchased by him during the year is not less than Rs. 10,000. |

(5) For the purpose of calculating the limit of 8[turnover of sales] for liability to tax,-

10[(a) except as otherwise expressly provided, the turnover of all sales shall be taken, whether such sales are of taxable goods or not]

(b) the 8[turnover of sales] shall include all sales ¹¹[***] made by the dealer on his own account, and also on behalf of his principals whether disclosed or not;

(c) in the case of an auctioneer, in addition to the 8[turnover of sales], if any, referred to in clauses (a) and (b), the 8[turnover of sales] shall also include the price of the goods auctioned by him for his principal, whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal, if the price of such goods is received by him on behalf of his principal ;

(d) in the case of an agent of a non-resident dealer, in addition to the 8[turnover of sales], if any, referred to in clause (a), (b) or (c), the 8[turnover of sales] shall also include the sales ¹²[***] of the non-resident dealer effected in the State.

^{12a}[(5A) *****]

(6) Notwithstanding anything contained in any contract or any law for the time being in force, but subject to the provisions of this Act, any person covered by ¹³[sub-clause (a), (b) or (c)] of clause (8) of section 2 shall be liable to pay tax under this Act, whether, or not the principal is a dealer and whether, or not such principal is liable to pay tax under this Act and whether or not the principals are disclosed.

14[(7) * * * deleted w.e.f. 20-6-2006]

(8) Where a dealer liable to pay tax under this Act is succeeded in the business by any person in the manner described in clause (a) of sub-section (1) or sub-section (4) of section 44, then such person shall, notwithstanding anything contained in this section, be liable to pay tax on the sales ¹⁵[*****] of goods effected by him on and after the date of such succession and accordingly nothing contained in the proviso to sub-section (2) shall apply to him in any year.

(9) Any person who is not liable to pay tax under the foregoing, provisions of this section but has been voluntarily registered under the provisions of this Act shall be liable to pay tax from the date of effect of the certificate of registration duly granted to him and accordingly nothing contained in the proviso to sub-section (2) shall apply to him in any year.

1. This sub-section was deleted by Mah. Act No. XLII of 2017, dated the 29th May 2017 w. e. f. 1.7.2017. Prior to deletion this sub-section read as under:

(1) Every dealer, who, immediately before the appointed day, holds a valid or effective certificate of registration or licence under any of the earlier laws or, who is liable to pay tax under any of the earlier laws, in the year ending immediately before the appointed day shall, if his turnover of sales or purchases has, in the said year under any of such earlier laws, exceeded rupees *[five lakh], or, as the case may be, who was an importer in the said year **[and his turnover of sales or purchases in the said year had] exceeded rupees one lakh, be liable to pay tax, with effect from the appointed day, in accordance with the provisions of this Act, till his certificate or licence is duly cancelled under this Act.

Explanation.—For the purposes of this sub-section, the expressions “turnover of sales”, “turnover of purchases” and “importer” shall have the respective meanings assigned to them under the relevant earlier laws.

* This word was substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f.1.4.2005.

**These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f.1.4.2005.

2. These words were substituted by Mah. Act No. XLII of 2017, dated the 29th May 2017 w. e. f. 1.7.2017. Prior to substitution these words were read as: “to whom sub-section (1) does not apply and whose *[turnover either of all sales or, as the case may be, purchases] made”

* These words were substituted for the words “turnover of all sales” by Mah. Act No. VIII of 2012 dated the 25th April 2012 w.e.f.1.5.2012.

3. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005 and again substituted by Mah. Act No. VIII of 2012 dated 25th April 2012 w.e.f.1.5.2012.

4. These words were deleted by Mah. Act No. XLII of 2017, dated the 29th May 2017w. e. f. 1.7.2017. Prior to deletion these words were read as: “and purchases” and “or turnover of purchases” respectively

5. These words were substituted by Mah. Act No. VIII of 2012 dated 25th April 2012 w.e.f.1.5.2012.

6. These words were substituted by Mah. Act No. VIII of 2012 dated 25th April 2012 w.e.f.1.5.2012.

6a. These words were deleted by Mah. Act No. XLII of 2017, dated the 29th May 2017. Prior to deletion these words were read as: “or turnover of purchases”

7. This word was substituted for the word, brackets and figure “sub-sections (7)” by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006.

8. The word “turnover” was substituted by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006 and again substituted by Mah. Act No. VIII of 2012 dated 25th April 2012 w.e.f.1.5.2012. Prior to substitution read as: “turnover of sales”.

8a. This figure is substituted for the figure “5,00,000” by Mah. Act No. XXVII of 2014 dt.26.6.2014

9. These words, letters and figures were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

10. Clause (a) substituted by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006. Prior to substituted the “Clause (a)” was read as under:-

"(a) except as otherwise expressly provided, the turnover of all sales or, as the case may be, the turnover of all purchases shall be taken, whether such sales or purchases are of taxable goods or not;"

11. These words were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

12. These words were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

12a. This sub-section was inserted by Mah. Act No. VIII of 2012 dated 25th April 2012 w.e.f. 1.5.2012 and then deleted by Mah. Act No. XLII of 2017, dated the 29th May 2017 w.e.f. 1.7.2017. Prior to deletion this sub-section was read as under:

"(5A) For the purpose of calculating the limit of turnover of purchases for liability to tax, the turnover of purchases of the goods that are liable to purchase tax as specified in section 6A and 6B shall be considered. The provisions of sub-section (5) in respect of sales shall apply *mutatis mutandis*."

13. These words, brackets and letters were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

14. Sub-section (7) deleted by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006. Prior to deleted the "Sub-section (7)" was read as under :-

"(7) Any person who at any time after the appointed day becomes liable to pay tax under the Central Sales Tax Act, 1956 (74 of 1956), but who is not liable to pay tax under the other provisions of this section shall be liable to pay tax on the sales and purchases effected by him on and from the day on which he becomes so liable to pay tax under the Central Sales Tax Act, 1956 (74 of 1956) and accordingly nothing contained in the proviso to sub-section (2) shall apply to him in any year."

15. These words were deleted by Mah. Act No. XLII of 2017, dated the 29th May 2017. Prior to deletion these words read as: "or purchases"

Taxes payable

Taxes payable -

Subject to the provisions of this Act and rules, there shall be paid by every dealer or, as the case may be, every person, who is liable to pay tax under this Act, the tax or taxes liable in accordance with the provisions of this Act and rules.

Tax not leviable on certain goods

1 [5. **Tax not leviable on certain goods** :- Subject to the other provisions of this Act, and the conditions or exceptions, if any, set out against each of the goods specified in column (3) of the Schedule A, no tax shall be payable on the sales of any goods specified in column (2) of that Schedule.]

1. Section 5 substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Levy of Sales Tax on the goods specified in schedules

6. Levy of sales tax on the goods specified in the Schedules :-

2[(1) There shall be levied a sales tax on the turnover of sales of goods, specified in column (2) in SCHEDULE B at the rates set out against each of them in column (3) of the said Schedule.]

3[(2) Notwithstanding anything contained in sub-section (1), there shall be levied a sales tax, in addition to the sales tax leviable under sub-section (1), on the sales of any motor spirits specified in [SCHEDULE B] at such rate per litre, if any, as may be set out from time to time against each of the Motor spirits, in column (3) of the said schedule.]

1 Section 6 substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005

2. Section 6 was renumbered as sub-section (1) and shall be deemed to have been added w.e.f. 1 st April, 2005 by Mah. Act No. XXII of 2009, dated 16.12.2009 and again substituted by Mah. Act No, XLII of 2017, dated the 29th May 2017. Prior to substitution this sub-section was read as under:

“(1) There shall be levied a sales tax on the turnover of sales of goods specified in column (2) in Schedule B, C, D or, as the case may be, E, at the rates set out against each of them in column (3) of the respective Schedule.”

3. Sub-section (2) was added and shall be deemed to have been added w.e.f. 1st April, 2005 by Mah. Act No. XXII of 2009 dt. 16.12.2009

4. These word and letter were substituted for “Schedule D” by Mah. Act No. XLII of 2017, dated the 29th May 2017.

[*****]

Purchase Tax payable on the purchases of cotton.

1. This section inserted by Mah. Act No.8 of 2012 dated 25th April 2012 and then deleted Mah. Act No. XLII of 2017 dated the 29th May 2017. Prior to deletion this section read as under:

“6A. Purchase tax payable on the purchases of cotton.-

(1) There shall be levied a purchase tax on the turnover of purchases of cotton purchased, directly or through a commission agent, from a person who is not a dealer or a dealer who is not a registered dealer, if,-

1. the cotton so purchased are dispatched outside the State, to any place within India, not by reason of sale, to his own place of business or of his agent; or
2. the cotton so purchased are used in the manufacture of -
3. tax free goods; or

4. taxable goods and the goods so manufactured are dispatched outside the State, to any place within India, not by reason of sale, to his own place of business or of his agent.
1. The rate of purchase tax shall be equal to the rate of sales tax set out against the aforesaid goods in SCHEDULE C.”

1[*****]

Purchase tax payable on the purchases of oil seeds.

1. This section inserted by Mah. Act No.8 of 2012 dated 25th April 2012 w.e.f.1.5.2012 and then deleted Mah. Act No. XLII of 2017 dated the 29th May 2017. Prior to deletion this section read as under:

“6B. Purchase tax payable on the purchases of oil seeds.-

(1) There shall be levied a purchase tax on the turnover of purchases of oil seeds purchased, directly or through a commission agent, from a person who is not a dealer or a dealer who is not a registered dealer, if,-

1. the Oil seeds so purchased are dispatched outside the State, to any place within India, not by reason of sale, to his own place of business or of his agent; or
2. the Oil seeds so purchased are used in the manufacture of -
 1. tax free goods; or
 2. taxable goods and the goods so manufactured are dispatched outside the State, to any place within India, not by reason of sale, to his own place of business or of his agent.

(2) The rate of purchase tax shall be equal to the rate of sales tax set out against the aforesaid goods in SCHEDULE C. ”

1[*****]

Rate of Tax on packing material

1. Section 7 substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005 and then deleted Mah. Act No. XLII of 2017 dated the 29th May 2017. Prior to deletion this section read as under:

“7. Rate of tax on packing materials :- Where any goods are sold and such goods are packed in any material, the tax shall be leviable under section 6 on the sales of such packing material, whether such materials are separately charged for or not, at the same rate of tax, if any, at which tax is payable on the sales of the goods so packed.”

Certain sales and purchases not to be liable to tax

8. Certain sales and purchases not to be liable to tax :-

(1) Nothing in this Act or the rules or the notifications shall be deemed to impose or authorise the imposition of a tax or deduction of tax at source on any sale or purchase of any goods, where such sale or purchase takes place,-

(a) (i) outside the State ; or

(ii) in the course of the import of the goods into the territory of India, or the export of the goods out of such territory ; or

(b) in the course of inter-State trade or commerce,

and the provisions of this Act and the said rules and notifications shall be read and construed accordingly.

Explanation.- For the purpose of this section, whether a sale or purchase takes place-

1. outside the State, or

(ii) in the course of the import of the goods into the territory of India or export of the goods out of such territory, or

(iii) in the course of inter-State trade or commerce,

shall be determined in accordance with the principles specified in sections 3, 4 and 5 of the Central Sales Tax Act, 1956 (74 of 1956).

(2) In accordance with the notification issued by the Central Government in exercise of its powers under section 3 of the Foreign Air craft (Exemption from Taxes and Duties on Fuel) Act, 2002 (36 of 2002), no tax shall be levied on the sales of fuel [*****] which are filled into receptacles forming part of any aircraft registered in a country other than India, if-

(a) the said country is a party to the Convention on International and Civil Aviation, 1944; and

(b) the said country has entered into an Air Services agreement with India; and

(c) the aircraft is operating on a scheduled or non-scheduled service to or from India.

2[(3) The State Government may, by general or special order published in the ^{2a}[Official Gazette], and subject to such conditions and restrictions as may be specified in the said order, exempt from payment of tax any class or classes of sales of goods made by any unit in the Special Economic Zone, a ^{2b}[developer or co-developer] of the Special Economic Zone, any ³[export oriented unit], any unit in the Software Technology Park or any unit in the Electronic Hardware Technology Park.

Explanation.— For the purposes of this sub-section,—

(a) “a unit in the Special Economic Zone” means a unit,-

(i) situated in a zone which is declared as Special Economic Zone by the Central Government or, as the case may be, the State Government, and

(ii) which has been certified by the Commissioner;

(b) “a unit in the Software Technology Park” means a unit,—

(i) set up in accordance with the Software Technology Park Scheme notified by the Government of India in the Ministry of Commerce and Industry, and

(ii) which has been certified by the Commissioner;

(c) “a unit in the Electronic Hardware Technology Park” means a unit,—

(i) set up in accordance with the Electronic Hardware Technology Park Scheme notified by the Government of India in the Ministry of Commerce and Industry, and

(ii) which has been certified by the Commissioner;

(d) “a 3[export oriented unit]” means a unit,—

(i) which has been approved as a 3[export oriented unit] by the Board appointed in this behalf by the Central Government in exercise of the power conferred by section 14 of the Industries (Development and Regulation) Act, 1951 (65 of 1951) and the rules made thereunder, and

(ii) which has been certified by the Commissioner.]

4[(e) a developer of the Special Economic Zone means a person,—

(i) or a body of persons, company, firm or Government undertaking, who develops, builds, designs, organizes, promotes, finances, or transfers by way of sale or lease, operates or maintains whole or a part of the infrastructure in the Special Economic Zone, and

(ii) who has been certified by the Commissioner ;

(e-a) a Co-developer means a person,-

1. who has entered into an agreement with the Developer to develop, build, design, organize, promote, finance, or transfer by way of sale or lease, operate or maintain whole or a part of the infrastructure in the Special Economic Zone, and
2. who has been certified by the Commissioner;]

(f) a unit includes an establishment situated within the Special Economic Zone.

5[(3A) The State Government may, by general or special order, published in the Official Gazette, and subject to such conditions, exceptions and restrictions as may be specified in the said order, exempt from payment of tax any class or classes of sales of goods made by any registered dealer to any class of dealers specified in the Import and Export Policy notified from time to time, by the Government of India.

(3B) The State Government may, by general or special order, published in the *Official Gazette*, and subject to such conditions, exceptions and restrictions, as may be specified in the said order, exempt fully or partly, from payment of tax any class or classes of sales of goods made by,—

(a) any registered dealer to the Canteen Stores Department or the Indian Naval Canteen Services,

(b) the Canteen Stores Department or the Indian Naval Canteen Services to the unit run canteens or members of the armed forces,

(c) the unit run canteens to the members of the armed forces.]

6[**Explanation.**-For the purposes of this sub-section, “members of the armed forces” includes ex-servicemen and families of the deceased personnel of the armed forces]

7[(3C) *****]

8[(3D) *****]

9[(4) The State Government may by general or special order published in the *Official Gazette*, and subject to such conditions and restrictions as may be specified in the order, provide for exemption from payment of the whole of tax in respect of any class or classes of sales of goods effected by a unit holding a Certificate of Entitlement as defined under section 88 to whom incentives are granted under any Package Scheme of Incentives, by way of exemption from payment of tax.]

10[(5) The State Government may, by general or special order, published in the Official Gazette, and subject to such conditions and restrictions, if any, as may be specified in the said order, exempt fully or partly, from payment of tax, any sales or classes of sales of goods made by any registered dealer to,—

- (a) the State Government,
- (b) the Central Government,
- (c) a generating company, as defined in the Electricity Act, 2003, for use in generation of electricity,
- (d) a registered dealer, holding a licence for transmission under the Electricity Act, 2003, for use in transmission of electricity,
- (e) a registered dealer, holding a licence for distribution of electricity under the Electricity Act, 2003, for use in distribution of electricity,
- (f) the Mahanagar Telephone Nigam Limited,
- (g) the Bharat Sanchar Nigam Limited,

11[(h) any telephone service provider, holding a licence granted under the Indian Telegraph Act, 1885 (13 of 1885) and the Indian Wireless Telegraphy Act, 1933 (17 of 1933), to establish, install, operate and maintain,-

- (a) telephone service upto subscribers terminal connections, or
- (b) national long distance service network, or
- (c) international long distance service network;
- (i) Telecom Infrastructure provider who has been granted registration certificate by the Department of Telecommunications, as Infrastructure Provider Category-1(IP-I).]

1. These words “ and lubricants” were deleted by Mah. Act No. XLII of 2017, dated the 29th May 2017.

2 .Sub-section (3) substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

2a. These words were substituted for the words “hundred per cent. export oriented unit” by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007. s.7(1) as per Notification No. VAT.1507/CR-57/Taxation-1, dt. 10.8.2007. s.7(1).

2b. These words were substituted for the word “developer” by Mah. Act No. VIII of 2012 dated 25.4.2012 w.e.f.1.5.2012.

3. These words were substituted for the words “hundred per cent. export oriented unit” by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007. s.7(1).

4. Clause (e) added by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006 and again substituted by Mah. Act No. VIII of 2012 dated 25.4.2012 w.e.f.1.5.2012 prior to substitution clause (e) read as:

“(e) a developer of the Special Economic Zone means a developer,–

(i) undertaking development, repairs, maintenance and improvement of the Special Economic Zone, and

(ii) who has been certified by the Commissioner;”

5.Sub-sections (3A) & (3B) were inserted by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006. s.39(b). (for Clarification refer Commissioner Tr. Cir. No. 23T of 2006, dt. 11.9.2006)

6. The “Explanation” was added and shall be deemed to have been added w.e.f. 20th June, 2006 by Mah. Act No. XXV of 2007, dt. 6.8.2007. s.7(2).

7. This Sub-section (3C) inserted by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007 and then this sub-section was deleted by Mah. Act No. XLII of 2017 dated the 29th May 2017. Prior to deletion this sub-section read as under:

“(3C) The State Government may, by general or special order published in the Official Gazette, and subject to such conditions, exceptions and restrictions as may be specified in the said order, exempt fully from payment of tax with effect from the date specified in the order, the transfer of property in goods involved in the processing of textiles described in column (3) of the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957) [as it stood immediately before the 8th April 2011].

*These words were added by Mah. Act No. VIII of 2012 dated 25.4.2012 w.e.f.1.5.2012.

8. This sub-section was inserted by Mah. Act No XV of 2016 dated 26.4.2016 w.e.f. 1.4.2016 and then this sub-section was deleted by Mah. Act No. XLII of 2017 dated the 29th May 2017. Prior to deletion this sub-section read as under:

“(3D) The State Government may, by general or special order published in the *Official Gazette* and subject to such conditions, exceptions and restrictions as may be specified in the said order, exempt fully or partially from payment of tax [either prospectively or retrospectively], the transfer of property in goods involved in the sizing and warping of yarn.

*These words were substituted for the words “with effect from the date specified in the order” by Mah. Act No.XXXI of 2017 dated 15.4.2017. s.8

9. Sub-section (4) substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

10. Sub-section (5) added by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006.

11. These sub-clauses were substituted by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007 as per Notification No. VAT.1507/CR-57/Taxation-1, dt. 10.8.2007. Prior to substitution this clause read as under :-

“(h) any telephone service provider, holding a licence granted under the Indian Telegraph Act, 1885 and the Indian Wireless Telegraphy Act, 1933, to establish, maintain and operate telephone services upto subscribers terminal connection.”

Amendment of schedule

9. Amendment of Schedule :-

(1) *The State Government may, from time to time, by notification in the Official Gazette,-*

(a) amend the Schedule by adding or modifying or deleting any entry therein and thereupon the Schedule shall stand amended accordingly for the purpose of levy of tax;

(b) provide for reducing or enhancing the rates of tax or for specifying the rates of tax where NIL rates are specified, and thereupon the Schedule shall stand amended for the purposes of this Act:

1[* * *]

2[***]

(2) The provisions contained in 3[sub-section (6)] of section 83 regarding rules made by the State Government shall apply *mutatis mutandis* to any notification issued under sub-section (1) as they apply to the rules made by the State Government.

1 This Proviso was deleted by Mah. Act No. XIV of 2005, dt. 31-3-2005 w.e.f. 1.4.2005.

2. This word was deleted by Mah. Act No. VII of 2010, dt. 19.04.2010 w.e.f. 18.02.2010. Prior to deleted the Proviso was read as under :-“Provided 3[***] that, no notification which provides for enhancement of rate of tax shall be issued after the expiry of the period of two years from the appointed day and not more than one such notification shall be issued within such period.

3. These words, brackets and figure were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Sales Tax Authorities

CHAPTER III

SALES TAX AUTHORITIES AND TRIBUNAL

10. Sales Tax Authorities :-

(1) For carrying out the purposes of this Act, the State Government shall appoint an officer to be called the Commissioner of Sales Tax.

(2) Likewise, the [State Government may appoint a Special Commissioner and] such number of Additional Commissioners of Sales Tax, and such number of,-

(a) Joint Commissioners.

(b) 1[*****]

(c) Deputy Commissioners,

(d) Assistant Commissioners,

(e) Sales Tax Officers, and

(f) other officers and persons, and give them such designations, as the Government deems necessary.

^{2a}[Provided that, the officers appointed under the Maharashtra Goods and Services Tax Act, 2017 shall be deemed to be the officers appointed under the provisions of this Act.]

(3) The Commissioner shall have jurisdiction over the whole of the State 3[***]. All other officers shall have jurisdiction over the whole of the State or over such local areas as the Commissioner may, by notification in the *Official Gazette*, specify.

(4) The Commissioner shall have and exercise all the powers and perform all the duties, conferred or imposed on the Commissioner by or under this Act, ⁴[a Special Commissioner of Sales Tax and the Additional Commissioner] or Additional Commissioners of Sales Tax, if any be appointed, shall, save as 5[otherwise directed by the Commissioner] by notification in the *Official Gazette*, have and exercise, within his or their jurisdiction, all the powers and perform all the duties, conferred or imposed on the Commissioner, by or under this Act.

(5) A Joint Commissioner shall, save as otherwise directed by the Commissioner by notification in the *Official Gazette*, have and exercise, in the area within his jurisdiction, all the powers, and shall perform all the duties, conferred or imposed on the Commissioner, by or under this Act.

(6) ⁶[*****] Deputy Commissioners, Assistant Commissioners, Sales Tax Officers, other officers and persons shall, within their jurisdiction, exercise such of the powers and perform such of

the duties of the Commissioner under this Act, as the Commissioner may, subject to such conditions and restrictions as he may, by general or special order impose, delegate to them either generally, or as respects any particular matter or class of matters by an order notified in the *Official Gazette*.

(7) The State Government may, subject to such restrictions and conditions, if any, as it may impose, by notification in the Official Gazette, delegate to the Commissioner the powers (not being the powers of the appointment of a Special Commissioner or Additional Commissioner] or Joint Commissioner) conferred on the Government by sub-section (2).

(8) No person shall be entitled to call in question in any proceeding, any exercise of power including the territorial jurisdiction of any officer or person appointed under sub-section (2), after the expiry of the period of thirty days from the date of receipt by such person of any communication, intimation, order or notice under this Act or under any earlier law, issued by such officer or person. If within the period aforesaid, an application in writing in the prescribed form raising an objection as to such exercise of power by or the jurisdiction of any such officer, or person is made to such officer or person, he shall refer the question to the Commissioner, who shall, after giving the applicant a reasonable opportunity of being heard, make an order determining the question. The order made by the Commissioner shall be final.

(9) All officers and persons appointed under sub-section (2) and Advance Ruling Authority, constituted under section 55] shall be subordinate to the Commissioner; and the subordination of officers other than the Commissioner, and of persons, amongst themselves shall be such as may be prescribed.

(10) The Commissioner may, from time to time, issue such instructions and directions as he may deem fit to the authorities and officers subordinate to him for carrying out the purposes of this Act, and such authorities and officers shall observe and follow such instructions and directions of the Commissioner:

Provided that, no such instructions or directions shall be issued,—

(i) so as to require any authority to pass a particular order or to dispose of a particular case in a particular manner; or

(ii) so as to interfere with the discretion of the appellate authorities in any particular case :

Provided further that, if the Commissioner is of the opinion that it is necessary in the public interest so to do, he may cause such instructions and directions to be published and circulated for general information.

1. These words were substituted for the words “State Government may appoint” by Mah. Act No. VIII of 2012 dated 25.4.2012 w.e.f.1.5.2012.

2 These words were deleted by Mah. Act No. XXVII of 2014 dated the 26th June 2014

2a. This proviso was inserted by Mah. Act No. XIV of 2019 dated the 9th July 2019 w.e.f. 1.7.2017.

3. This Portion was deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

4. These words were substituted for the words “and the Additional Commissioner” by Mah. Act No. VIII of 2012 dated 25.4.2012 w.e.f.1.5.2012.

5. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005

6. These words were deleted by Mah. Act No. XXVII of 2014 dated the 26th June 2014

7. These words were substituted for the words “of Additional Commissioner” by Mah. Act No. VIII of 2012 dated 25.4.2012 w.e.f.1.5.2012.

8. These words were inserted by Mah. Act No. XV of 2016 dated 26.4.2016 w.e.f. 1.5.2016.

Tribunal

11. Tribunal :-

(1) There shall be a Tribunal to be called “the Maharashtra Sales Tax Tribunal”. The Tribunal shall consist of such number of members appointed by the State Government as the Government may, from time to time, consider necessary for the proper discharge of the functions conferred on the Tribunal by or under this Act.

(2) The State Government shall appoint one of the members of the Tribunal to be the President thereof on the basis of his seniority in the Judicial Service.

[(3) Every member of the Tribunal shall be a person, who,—

1. is or has been, a Judge of the High Court, or
2. is or has been, a District Judge, or
3. is qualified for appointment as a District Judge, and has held Judicial Office for not less than ten years, or
4. (a) has, for a continuous period of not less than two years held office, not below the rank of Joint Commissioner of Sales Tax or, as the case may be, Joint Commissioner of State Tax and has dealt with quasi-judicial proceedings, or

(b) is retired and has before his retirement held office not below the rank of Joint Commissioner of Sales Tax or, as the case may be, Joint Commissioner of State Tax and had before his retirement dealt with quasi-judicial proceedings, or

(c) is retired and before his retirement has held office as member of the Tribunal.

Explanation.—For the purposes of this sub-section, “quasi-judicial proceedings” shall include assessment, audit or appeal proceedings.

(3A) (a) The members, specified in clause (i), (ii) or (iii) shall be appointed or re-appointed by the State Government after consultation with the High Court of Judicature at Bombay.

(b) The member, specified in clause (iv), shall be appointed or re-appointed by the State Government on the recommendations of a Selection Committee, constituted in the prescribed manner.

(3B) The terms of office of the member of the Tribunal shall be such as may be prescribed. The member shall hold office for such period, as may be prescribed or as the State Government may, by special order in his case, specify.]

(4) Any vacancy of the member of the Tribunal shall be filled up by the State Government as soon as practicable.

(5) The functions of the Tribunal may be discharged by any of the members sitting either singly, or in Benches of two or more members, as may be determined by the President.

(6) If the members of a Bench are divided, the decision shall be the decision of the majority, if there be a majority; but if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President of the Tribunal for hearing on such point or points to one or more of the other members of the Tribunal, including himself and such point or points shall be decided according to the majority of the members of the Tribunal who heard the case including those who first heard it.

(7) During the course of any proceedings, if a Bench is of the opinion that any earlier decision of any Bench on any point or issue requires reconsideration, or where such Bench is inclined to take a decision on any point or issue different than the decision earlier taken by any Bench, then such Bench shall refer the point or the issue to the President for formation of a larger Bench. The President shall thereupon form a larger Bench of such members of the Tribunal as he may determine. Such larger Bench shall, as far as practicable, be presided over by the President. The point or the issue shall be decided according to the decision of the majority of the members constituting such larger Bench. Where any member including the President is sitting singly he may in similar circumstances refer the matter to the President for formation of a larger Bench.

(8) The Tribunal shall have power to award costs after giving the dealer or person, as the case may be, a reasonable opportunity of being heard, and the amount of such costs shall be recoverable from the dealer or person ordered to pay the same in the manner provided in this Act for recovery of arrears of tax.

(9) The Tribunal shall, with the previous sanction of the State Government, for the purpose of regulating its procedure including the place or places at which the Tribunal, the Benches or the members thereof shall sit and dispose of its business, make regulations consistent with the provisions of this Act, rules and notifications.

(10) The regulations made under sub-section (9) shall be published in the *Official Gazette*.

1. This sub-section was substituted by Mah. Act No. XXVI of 2018, dated the 31st March 2018, w. e. f. 1.04.2017. Prior to substitution, this sub-section read as under:

“(3) The qualifications and the terms of office of the members of the Tribunal shall be such as may be prescribed, and a member shall hold office for such period as may be prescribed or as the State Government may, by special order in his case, specify.”

Action against any authority for vexacious order or willful under Assessment etc.

12. Action against any authority for vexatious order or willful under-assessment etc. :-

(1) The Commissioner may,-

(i) on receipt of any complaint in the prescribed form from any dealer or person liable to pay tax under this Act or from any authority appointed under section 10, that any particular authority has made in the proceedings of such dealer or person a false or vexatious order or has taken any action under this Act vindictively or has vindictively not acted within a reasonable time upon any application provided for by or under this Act, or

(ii) on receipt of a report from the Tribunal that, a particular authority has knowingly or willfully under-assessed any dealer or person or has passed a false or vexatious order or has taken any action under this Act vindictively, or has vindictively not acted in any reasonable time upon any application provided for, by or under this Act, or

(iii) on his own motion, if he has reason to believe that any authority has passed such order or taken such action or has made such under-assessment, or has not so acted upon any application,

1[***] initiate appropriate enquiry or action in the matter, and if in his opinion, *prima facie* case against such particular authority or officer exists, he may initiate appropriate action against such authority under the Maharashtra Civil Services (Conduct) Rules, 1979, or the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979, or any other relevant rules for the time being in force. The Commissioner shall within one year of the receipt of the complaint referred to in clause (i) or report referred to in clause (ii), send an intimation to the person or dealer making the said complaint

or to the Tribunal, stating therein whether he has decided to initiate or has initiated any action against the concerned authority or officer.

(2) The Commissioner may, on finding that any complaint made by any dealer or person is false or mischievous or has been made with a view to defeating the application or purposes of this Act, within one year of the receipt of the complaint, after giving the person or the dealer a reasonable opportunity of being heard, impose on him such fine not exceeding five thousand rupees as he deems fit and the fine so levied may be recovered in the manner provided in this Act for recovery of arrears of tax.

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1. These words were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Persons appointed under Section 10 and members of Tribunal to be public servants

13. Persons appointed under section 10 and members of Tribunal to be public servants:-

The Commissioner and all officers and persons appointed under section 10 and all the members of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Powers of Tribunal and Commissioner

14. Powers of Tribunal and Commissioner :-

(1) In discharging their functions by or under this Act, the Tribunal and the Commissioner shall have all the powers of a Civil Court for the purpose of,-

- (a) proof of facts by affidavit;
- (b) summoning and enforcing the attendance of any person, and examining him on oath or affirmation;
- (c) compelling the production of documents; and
- (d) issuing commissions for the examination of witnesses.

(2) In the case of any affidavit to be made for the purposes of this Act, any officer appointed by the Tribunal or the Commissioner may administer the oath to the deponent.

(3) Without prejudice to the provisions of any other law for the time being in force, where a person, to whom a summons is issued by the Tribunal or the Commissioner either to attend to give evidence or produce books of accounts, registers or other documents at a certain place and time, intentionally omits to attend or produce the books of accounts, registers or documents at the place and time, the Tribunal or as the case may be, the Commissioner may impose on him such fine not exceeding five thousand rupees as it or he thinks fit; and the fine so levied may be recovered in the manner provided in this Act for recovery of arrears of tax :

Provided that, before imposing any such fine, the person concerned shall be given a reasonable opportunity of being heard.

(4) When any documents are produced by a person or dealer on whom the summons was issued by the Commissioner and the Commissioner is of the opinion that such dealer or any other dealer has evaded or is attempting to evade the payment of any tax due from him and the documents produced

by such dealer or person are necessary for establishing the case against such dealer, the Commissioner may, for reasons to be recorded in writing, impound the documents and shall grant a receipt for the same and retain the same for so long as may be necessary in connection with the proceedings under this Act 1[or for a prosecution]:

Provided that, if the original documents are required by any statutory authority for any official purpose, then the said documents shall be made available to such authority for such purpose for such duration as may be required.

1. These words were inserted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Indemnity

15. Indemnity :-

No suit, prosecution or other legal proceedings shall lie against any, servant of the Government for anything which is in good faith done 1[or intended] to be done under this Act, the rules or notifications.

1 These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Registration

CHAPTER IV

REGISTRATION

16. Registration:-

(1) No dealer shall, while being liable to pay tax under this Act, be engaged in the business as a dealer, unless he possesses a valid certificate of registration as provided by this Act :

Provided that, the provisions of this sub-section shall be deemed not to have been contravened, if the dealer having applied, within the prescribed time, for such registration as provided in this section, is engaged in such business :

Provided further that, if any dealer, holds the certificate of registration granted under the Bombay Sales Tax Act, 1959, which is effective or valid immediately before the appointed day, it shall not be necessary for him to apply for a fresh certificate under this section so long as the said certificate is not duly cancelled under this Act :

Provided also that, a dealer holding an effective certificate of registration or, as the case may be, a licence granted before the appointed day, under any laws other than the Bombay Sales Tax Act, 1959, shall, notwithstanding the fact that he is holding such effective certificate be required to apply for grant of certificate of registration under this section.

(2) Every dealer, required by sub-section (1) to possess a certificate of registration or one who voluntarily desires to get registered shall apply in the prescribed manner to the prescribed authority for grant of such registration.

1[*****]

2[(2A) The security deposit deposited under the proviso to sub-section (2) shall be refundable on such conditions, restrictions and within such time as may be prescribed. The security deposit shall be forfeited, if there is no compliance of such conditions, restrictions and time limit.]

(3) 3[If the prescribed authority, after scrutiny of the application and after such enquiry as it deems fit, is satisfied that the application for registration is in order and the prescribed conditions are fulfilled, shall register the applicant and issue to him a certificate of registration in the prescribed form]:

⁴[Provided that, on finding that,-

(i) the application is not complete, or

(ii) the documents prescribed for grant of registration certificate have not been uploaded on the department's web site i.e. www.mahavat.gov.in, or

(iii) such documents are not consistent with the information contained in the application or are not legible, or

(iv) the prescribed conditions are not fulfilled,

the prescribed authority may pass the rejection order without giving an opportunity of being heard and shall intimate the applicant accordingly in the prescribed manner:

Provided further that, if the applicant complies with all the discrepancies intimated in the rejection order within thirty days from the date of intimation of rejection order and if such compliance is approved by the prescribed authority, then the application rejected earlier under the first proviso shall stand restored. However, the applicant shall be eligible to comply with the discrepancies under this proviso only once.]

(4) The Commissioner may, after considering any information furnished under any of the provisions of this Act or otherwise received, amend, from time to time, any certificate of registration.

(5) A person or a dealer who has got himself registered shall be liable to pay tax during the period in which his registration certificate is effective, notwithstanding the fact that subsequently it is found that no registration certificate was necessary in his case.

(6) Where,-

(a) any business, in respect of which a certificate of registration has been issued under this section, has been discontinued or otherwise disposed of, or has been transferred 5[* * *], or

(b) the turnover, of sales ^{5a}[****] of a registered dealer who has become liable to pay tax under section 3 has during any year not exceeded the relevant limit specified in sub-section (4) of section 3, ^{5b}[or]

^{5d}[(c) the turnover of sales of a registered dealer, other than an importer, has during the year 2013-14, not exceeded the limit, specified in sub-section (4) of section3;]

then in the case covered by clause (a), the dealer shall apply in the prescribed manner and within the prescribed time, for cancellation of his registration to the Commissioner, and in the case covered by clause (b), the dealer may apply, in the prescribed manner, for cancellation, of his registration to the Commissioner; and thereupon the Commissioner may, after such inquiry as he deems fit and subject to the rules, cancel the registration with effect from such date including any date earlier to the date of the order of cancellation as he considers fit having regard to the circumstances of the case. ^{5c}[In the case covered by clause (c), the dealer may apply in the prescribed form for

cancellation of his registration to the Commissioner on or before the 30th September 2014 and thereupon the Commissioner may, after such inquiry as he deems fit, cancel the registration with effect from the 1st October 2014.] The registration certificate cancelled under this sub-section shall be returned to the Commissioner within the prescribed time:

Provided that, where the Commissioner is satisfied that any business in respect of which a certificate has been issued under this section has been discontinued or disposed of 5[* * *], and the dealer has failed to apply under clause (a) as aforesaid for cancellation of registration, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, cancel the registration with effect from such date as he may fix to be the date in accordance with the rules, if any, from which the business has been discontinued or disposed of or changed to a different local area, as the case may be :

6[Provided further that, where the Commissioner is satisfied that any person,-

(a) who has voluntarily got himself registered has not commenced business within six months from the date of registration, or

(b) has obtained registration by fraud or by misrepresentation of ⁶[facts, or]

⁶[(c) who has obtained the registration on or after the 1st April 2018, but has not submitted his current bank account details on the automation system of the Department within the prescribed period,]

the Commissioner may, after giving the person a reasonable opportunity of being heard, cancel the registration certificate with effect from such date as he may fix in accordance with the rules.]

7[Provided also that], the cancellation of a certificate of registration on an application or otherwise shall not affect the liability of the dealer to pay the tax including any penalty, amount forfeited and interest due for any period ending on or before the date of cancellation whether such tax including any penalty, amount forfeited and interest is assessed before the date of cancellation but remains unpaid, or is assessed thereafter,

8[**Explanation** * * * deleted w.e.f. 20-6-2006]

⁹[(6A) The registration of a dealer, who has not effected sale, during the year 2016-17, of any goods, specified in column (2) in SCHEDULE A or, as the case may be SCHEDULE B, as it exists on the appointed date for the Maharashtra Goods and Services Tax Act, shall be deemed to be cancelled with effect from the said appointed date:

Provided that, any such dealer, whose registration is deemed to be cancelled, may apply in the prescribed manner for the revocation of the cancellation of his registration, if he intends to carry on the business in these goods.]

(7) The Commissioner shall, by such date as he may notify in the *Official Gazette*, prepare a list of all registered dealers and may amend the list, from time to time. Any person may make an application in the prescribed form to the Commissioner for a certified copy of any extract from the list and thereupon the Commissioner, shall furnish a copy of the extract to the applicant.

(8) Save as otherwise provided in sub-section (9), a certificate of registration granted under this section and any certificate that may be granted under this Act, shall be personal to the dealer or person to whom it is granted, and shall not be transferable.

(9) Where a registered dealer,-

(a) effects a change in the name of his business, or

(b) is a firm, and there is a change in the constitution of the firm without dissolution thereof, or

(c) is a trustee of a trust, and there is change in the trustees thereof, or

- (d) is a guardian of a ward, and there is a change in the guardian or termination of guardianship, or
- (e) is a Hindu Undivided Family and there is a change of Karta, or
- (f) is a private limited company which is converted into a public limited company,

then, merely by reason of occurrence of any of the changes aforesaid, it shall not be necessary for the dealer, or the firm with the changed constitution, or the new trustees, or new guardian or the ward or the new Karta or the public limited company to apply for a fresh certificate of registration and on information being furnished in the manner required by section 18, the certificate of registration shall, where necessary, be amended and any other certificate granted under the Act, rules or notifications shall also continue to be valid and be amended where necessary with effect from the appropriate date.

1. This proviso substituted by Mah. Act No. XV of 2011, dt. 21st April 2011 w.e.f. 1st May 2011. Earlier

this “Proviso” was added by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007 as per Notification No. VAT.1507/CR-57/Taxation-1, dt. 10.8.2007 and read as:

“ [Provided that, in the case of an application made by a person who voluntarily desires to get registered, the certificate of registration shall not be granted unless the applicant has deposited an amount of Rs. 25,000 in the Government Treasury as advance towards the tax, interest or penalty, if any, that may become due. The amount so deposited may be adjusted against the tax payable according to the return required to be filed in the year in which the registration is granted or in the succeeding year. The amount of deposit in excess of the amount due from him, by way of tax, interest or penalty, if any, shall be refunded as provided in section 50 or, as the case may be, section 51.]” again this proviso was deleted by Mah. Act No. LXIX of 2018 dated the 14th December 2018. Prior to deletion this proviso read as under:

“Provided that, if the application is made on or after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2011, by a person who voluntarily desires to get registered, the application shall not be entertained, unless the applicant has deposited an amount of rupees 25,000 in the Government Treasury by way of security deposit and the amount so deposited shall not be adjusted against the tax payable as per any return or towards any other liability under this Act.”

2. This sub-section inserted by Mah. Act No. XV of 2011 dated 21st April 2011 w.e.f. 1st May 2011

3. This Portion was substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

4. This proviso was substituted by Mah. Act No. XV of 2016 dated 26.04.2016 w.e.f. as notified by State Government by notification. Prior to substitution this proviso read as under:

"Provided that, the prescribed authority, on finding that the application is not complete or that the information or documents prescribed for grant of registration certificate have not been furnished, or, *[[***]], the prescribed conditions are not fulfilled, may, after giving the applicant a reasonable opportunity of being heard, reject the application for reasons to be recorded in writing."

*These words were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

5. These words were deleted for the words “ or the place of such business is changed to a different local area” by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006.

5a. The words “or the turnover of purchases” were deleted by Mah. Act No. XLII of 2017, dated the 29th May 2017.

5b. This word is added to the clause (b) by Mah. Act No. XXVII of 2014, dated the 26th June 2014

5c. This clause added by Mah. Act No. XXVII of 2014, dated the 26th June 2014

5d. These portion inserted by by Mah. Act No. XXVII of 2014, dated the 26th June 2014.

6. This proviso was substituted by Mah. Act No. XV of 2016 dated the 26.04.2016 w.e.f. 26.04.2016. Prior to substitution this proviso read as under:

" Provided further that, where the Commissioner is satisfied that any person who has voluntarily got himself registered has not commenced business within six months from the date of registration, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, cancel the registration certificate with effect from such date as he may fix in accordance with the rules:" Earlier this “Proviso” was added by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007. as per Notification No. VAT.1507/CR-57/Taxation-1, dt. 10.8.2007. s.8(2)(a).

6a These words were substituted for the word ”facts,” by Mah. Act No. LXIX of 2018, dt. 14.12.2018.

6b. This clause was inserted by Mah. Act No. LXIX of 2018, dt. 14.12.2018.

7. These words were substituted for words “Provided further that” by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007 as per Notification No. VAT.1507/CR-57/Taxation-1, dt. 10.8.2007. s.8(2)(b).

8. The “Explanation” was deleted by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006. s.40(b). (for Clarification refer Commissioner Tr. Cir. No. 23T of 2006, dt. 11.9.2006). Prior to deleted the “Explanation” was read as under :-

“Explanation.- For the purposes of this section, local area means the area to which the Post and Telegraph authorities have assigned a Postal Index Number (PIN).”

9. This sub-section was inserted by Mah. Act No. XLII of 2017, dated the 29th May 2017.

[*****]

1. This section was deleted by Mah. Act No. XLII of 2017 dated the 29th May 2017. Prior to deletion this section read as under:

Fresh Registration

1. This section was deleted by Mah. Act No. XLII of 2017 dated the 29th May 2017. Prior to deletion this section read as under:

“ 17. Fresh Registration :-

(1) Every registered dealer who holds, on such date as the Commissioner may by notification in the Official Gazette specify, a certificate of registration, which is valid on the said date (hereinafter, in this section, referred to as “the existing certificate of registration”), shall obtain in lieu of the existing certificate of registration a fresh certificate of registration as provided in this section.

(2) Every dealer, who is required to obtain a fresh certificate under sub-section (1), shall apply in such form, manner and time and to such authority as may be prescribed; and such application shall be

accompanied by the existing certificate of registration together with all additional copies thereof, if any, issued to him.

(3) On receipt of such application, the prescribed authority shall, subject to rules, issue a fresh certificate of registration, in the prescribed form to the applicant; and thereupon the fresh certificate of registration, so issued, shall, for all the purposes of this Act, be deemed to be a certificate of registration issued under section 16.

(4) Without prejudice to the other provisions of this Act, all the existing certificates of registration shall stand cancelled with effect from such date as the Commissioner may notify in the *Official Gazette*.

(5) The Commissioner may, by the notification issued under sub-section (1) or (4), also provide that such notification shall apply only to such class of registered dealers as are specified in the said notification and such notification may be issued by him, from time to time.

(6) The provisions of this section shall *mutatis mutandis* apply in respect of any other certificate issued by or under the provisions of this Act as they apply in respect of the certificate of registration.”

Information to be furnished regarding changes in business

18. Information to be furnished regarding changes in business, etc.:- Any registered dealer liable to pay tax under this Act, who,-

(1) (a) transfers by way of sale or otherwise disposes of his business or any part thereof, or effects or knows of any other change in the ownership of the business, or

(b) discontinues his business, or changes the place thereof, or opens a new place of business, or

(c) changes the name of his business, or

(d) enters into a partnership in regard to his business, or

(e) applies for or has an application made against him for insolvency or liquidation,

(f) being a company, is involved in merger, de-merger or amalgamation of companies,

1[(g) undertakes any change in the nature of business, or

(h) effects any changes in the Bank account.]

shall, within the prescribed time, inform the prescribed authority accordingly.

(2) Where any dealer liable to pay tax under this Act,-

(a) dies, his executor, administrator or other legal representative or,

(b) where he is a firm, a Hindu Undivided Family or an association of persons and there is a change in the constitution of such firm, Hindu Undivided Family or association, either by way of dissolution, disruption, partial partition or partition, or otherwise, then every person who was a partner, Karta or a member of such firm, Hindu Undivided Family or association, or

(c) transfers or otherwise disposes of his business in the circumstances mentioned in sub-section (4) of section 44, then any person from whom and every person to whom the business is so transferred,

shall, in the prescribed manner, inform the said prescribed authority of such death, change in the constitution, dissolution, partial partition, partition, disruption or transfer.

1. These clauses (g) & (h) were added by Mah. Act. No. XII of 2010 dt.29.04.2010 w.e.f. 1st May, 2010.

Dealer to declare the name of Manager of business and Permanent account number

19. Dealer to declare the name of manager of business and permanent account number

:-

(1) Every dealer, who is liable to pay tax, and who is a Hindu Undivided Family, or an association of persons, club or society or firm or company, or who is engaged in business as the guardian or trustee or otherwise on behalf of another person shall, within the period prescribed, send to the authority prescribed, a declaration in the manner prescribed stating the name of the person or persons who shall be deemed to be the manager or managers of such dealer's business for the purposes of this Act. Such declaration shall be furnished at the time of registration whenever applicable and may be revised in the prescribed manner, from time to time.

(2) Every dealer liable to pay tax under this Act who is liable to obtain a permanent account number under the Income Tax Act, 1961, shall communicate to the Commissioner, in the prescribed time and manner, the said number 1[* * *].

1 These words were deleted for words "if he has obtained the same and in any other case shall State whether he has applied for the same and provide the details of the application" by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007 as per Notification No. VAT.1507/CR-57/Taxation-1, dt. 10.8.2007

Returns & Self-assessment

CHAPTER V

RETURNS AND ASSESSMENT, ETC.

1[20. Returns and self-assessment :-

(1) (a) Every registered dealer shall file correct, complete and self-consistent return in such form, by such date, for such period and to such authority as may be prescribed. Different types of returns may be prescribed for different classes of dealers.

(b) The Commissioner may examine the return to ascertain whether it is complete and self-consistent. If the return is not complete or self-consistent, the Commissioner may serve on the dealer, within four months of date of filing of the return, a defect notice in the prescribed form. The said registered dealer shall correct the defects and submit to the prescribed authority a fresh complete and self-consistent return, within one month of the service of the defect notice:

Provided that, the registered dealer who fails to submit a complete or self-consistent fresh return within the said period of one month shall be deemed not to have submitted the return within the prescribed time as required under clause (a).

2[(2) Notwithstanding anything contained in sub-section (1), the Commissioner may, subject to such terms and conditions, as may be prescribed, permit any dealer to file separate return,—

(a) for all or any of the places of business of the dealer, whether or not situated within the jurisdiction of the same registering authority, or

(b) for different constituents of his business to such authority as he may direct.]

(3) Every person or an unregistered dealer who is required to file a return under any other provision of this Act, shall file such return for such period, in such form, by such date and to such

authority as may be prescribed and the provisions contained in paragraph (b) of sub-section (1) shall apply to such return as they apply to the return prescribed under paragraph (a) of sub-section (1).

3[(4) Any person or dealer who, having furnished a return 4[*****],-

(a) discovers any omission or incorrect statement therein, may furnish, a revised return in respect of the period covered by the return at any time before a notice for assessment is served on him in respect of the period covered by the said return or before the expiry of a period ³[prescribed for furnishing the audit report under section 61 for the year] to which the return 4[***] relates, whichever is earlier;

(b) discovers as a result of the report of audit of his accounts prepared for the purpose of section 61, any omission or incorrect statement therein, ⁶[may furnish a single revised return for the year] as regards the period in respect of which the omission or incorrect statement is discovered, ⁷[before] the expiry of the period of thirty days from the date prescribed for furnishing the said report;

(c) agrees with the observation contained in any intimation received by him under section 63, that the return, fresh return or, as the case may be, revised return, filed by him contains any omission or incorrect statement, ⁸[may furnish a single revised return for that year] within thirty days from the date of service on him of the said intimation.]

9[Provided that, any such person or dealer may furnish not more than one revised return under ^{9a}{ ***^{9b}[*****] clause(b),] and such revised return may include revision of return or revised return filed earlier.]

10[(5) Where a dealer is required to file a fresh return or, as the case may be, a revised return, he shall file such fresh or revised return with the authority prescribed and if any amount of tax is required to be paid in accordance with such fresh or revised return, then he shall pay such amount in the Government Treasury and attach a self attested true copy of the receipted challan with the fresh or revised return.]

¹¹[(6) Where a person or a dealer fails to file any return within the prescribed time, as provided under this section, then the said person or dealer shall, before filing of the said return, pay, by way of late fee, an amount equal to rupees ¹²¹³[one thousand] if the return is filed within a period of thirty days from the expiry of the due date prescribed for filing of such return and an amount of rupees five thousand, in any other case.] This amount shall be in addition to any other amount payable, if any, as per return.]

¹⁴[Provided that, if circumstances exist which render it necessary so to do in the public interest, the State Government may, from time to time, by notification published in the *Official Gazette*, exempt the whole or any part of the late fee payable under this sub-section, by such class or classes of dealers, for such period or periods, either prospectively or retrospectively, as may be mentioned in such notification.]

1. Section 20 was substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

2 Sub-section (2) was substituted by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006. s.41(a). (for Clarification refer Commissioner Tr. Cir. No. 23T of 2006, dt. 11.9.2006). Prior to substituted the “Sub-section (2)” was read as under :-

“(2) Notwithstanding anything contained in sub-section (1), the Commissioner may, subject to such terms and conditions, as may be prescribed, permit any dealer,—

(a) to furnish returns for such different period, or

(b) to furnish a consolidated return relating to all or any of the places of business of the dealer in the State for such period or periods, to such authority, as he may direct.”

3. Sub-section (4) was substituted by Mah. Act No. XVII of 2009, dt. 27.6.2009 w.e.f. 1st July, 2009. s.5. Prior to substitution the “Sub-section (4)” read as under :-

“(4) Any person or dealer who, having furnished a return under sub-section (1), (2) or (3) discovers any omission or incorrect statement therein, may furnish a revised return in respect of the period covered by the return at any time before a notice for assessment is served on him in respect of the period covered by the return or before the *[expiry of a period of nine months] from the end of the year containing the period to which the return relates, whichever is earlier.”

* These words were substituted for words **[“expiry of a period of eight months”] by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007 s.10 as per Notification No. VAT.1507/CR-57/Taxation-1, dt. 10.8.2007.

**These words were substituted for the words “ expiry of a period of six months” by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006. s.41(b).

4 These words were deleted by Mah. Act No. XV of 2011 dt. 21st April 2011 w.e.f. 1st May 2011

5. The words “of *[ten] months from the end of the year” were substituted by Mah. Act No. XV of 2016 dated 26.4.2016 w.e.f. 26.4.2016.

*The word “nine” substituted by Mah. Act No. XV of 2011 dt. 21st April 2011 w.e.f. 1st May 2011

6 These words were substituted for the words “may furnish a revised return” by Mah. Act No. VIII of 2013 dated the 20th April 2013 w.e.f. 1.5.2013.

7. The word “after” substituted by Mah. Act No. XII of 2010 dt. 29.04.10 w.e.f. 1st May, 2010

8. These words were substituted for the words “may furnish a revised return in respect of the period covered by the said return” by Mah. Act No. VIII of 2013 dated the 20th April 2013 w.e.f. 1.5.2013.

9. This proviso inserted by Mah. Act No. XV of 2011 dt. 21st April 2011 w.e.f. 1st May 2011

9a. The words “each of clause(a) or, as the case may be,” were deleted by Mah. Act XV of 2016 dated 26.4.2016 w.e.f. 26.4.2016.

9b. The words, “the aforesaid clauses” were substituted by Mah. Act XVII of 2015 dated 18.4.2015 w.e.f. 1.4.2015.

10. Sub-section (5) added by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006.

11. This sub-section was added by Mah. Act No. VIII of 2012 dt. 25.4.2012 w.e.f. 1.8.2012

12. These words were substituted for the words “five thousand” by Mah. Act No. XXVII of 2014 dated 26th June 2014 w. e. f. 1.7.2014

13 These words “two thousand” were substituted by Mah. Act XVII of 2015 dated 28.4.2015 w.e.f. 1.5.2015.

14. This proviso added by Mah. Act No. VIII of 2013 dated the 20th April 2013 w.e.f. 1.5.2013.

No notice for assessment in certain cases

1[21. ***** deleted]

1 Section 21 deleted w.e.f.1st April 2005 by Ordinance No.VI of 2011 dt.10th March 2011.

Audit

22. Audit :-

(1) With a view to promoting compliance with the provisions of this Act, the Commissioner may arrange for audit of the business of any registered dealer. For the purpose of this section, the selection of dealers for audit shall be made from amongst the dealers,-

(a) who have not filed returns by the prescribed dates; or

(b) who have claimed refund of tax; or

(c) where the Commissioner is not, *prima facie*, satisfied with the correctness of any return filed by a dealer or is not satisfied with any claim made, deduction claimed or turnover disclosed in any return filed by the dealer; or

(d) who are selected by the Commissioner on the basis of the application of any criteria or on a random selection basis; or

(e) where the Commissioner has reason to believe that detailed scrutiny of the case is necessary.

1[(2) * * *]

2[(3) * * *deleted w.e.f. 15-8-2007]

3[(4) * * *]

(5) (a) During the course of the audit, the officer may require the dealer,-

(i) to afford him the necessary facility to inspect such books of accounts or other documents as he may require and which may be available at such place,

(ii) to afford him the necessary facility to check or verify the cash or stock which may be found therein, and

(iii) to furnish such information as he may require as to any matter which may be useful for or relevant to any proceedings under this Act.

(b) The officer conducting the audit shall on no account remove or cause to be removed any books of accounts, other documents or any cash or stock.

4[(6) * * *]

4[(7) * * *]

4[(8) * * *]

1 Sub-section (2) deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

2 Sub-section (3) deleted by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007. as per Notification No. VAT.1507/CR-57/Taxation-1, dt. 10.8.2007. s.11. Prior to deleted the “sub-section (3)” was read as under :-

“(3) *On or after the appointed day, any officer to whom the powers and duties under this section have been delegated, by the Commissioner, in writing, may conduct audit of the business.

3. Sub-section (4) deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

4 Sub-sections (6), (7) (8) were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Assessment

23. Assessment :-

1[(1) Where a registered dealer fails to file a return in respect of any period by the prescribed date, the Commissioner may assess the dealer in respect of the said period to the best of his judgment without serving a notice for assessment and without affording an opportunity of being heard:

^{1a}[Provided that, if after the assessment order is passed, the dealer submits the return for the period to which the said order relates then, the order passed as aforesaid shall stand cancelled and after such cancellation, the dealer may be assessed in respect of the same period under other provisions of this section:]

Provided further that, such cancellation shall be without prejudice to any interest or penalty that may be levied in respect of the said period:

Provided also that, no order under this sub-section shall be passed after three years from the end of the year containing the said period.]

(2) 2[Where the return in respect of any period] is filed by a registered dealer by the prescribed date and if the Commissioner considers it necessary or expedient to ensure that 3[return is correct and complete] and he thinks it necessary to require the presence of the dealer or the production of further documents, he shall serve on such dealer, a notice requiring him on a date and at a place specified therein, either to attend and produce or cause to be produced all documents on which such dealer relies 4[in support of his return] or to produce such documents or evidence as is specified in the notice.

On the date specified in the notice, or as soon as may be thereafter, the Commissioner shall, after considering all the documents or evidence which may be produced, assess the amount of tax due from the dealer:

Provided that, if a registered dealer fails to comply with the terms of any notice issued under this sub-section, the Commissioner shall assess, to the best of his judgement the amount of tax due from him :

Provided further that, 5[***] no order of assessment under this sub-section shall be made after the expiry of 6[four years] from the end of the 7[year containing the period to which the return relates].

^{7a}[Provided also that, in respect of the period commencing on or after the 1st April 2008 and ending on or before the 31st March 2009, an order of assessment under this sub-section may be made on or before the 30th June 2013.]

^{7b}[(2A) Where all the returns for the period commencing on or after the 1st April 2012 are filed by a registered dealer for any year within the period for filing revised return under clause (a) of sub-section (4) of section 20 and if the taxes as per these returns has also been paid within the said period and if the Commissioner is satisfied that the returns furnished by such dealer are correct and complete, he may assess the amount of tax due from such dealer on the basis of such returns:

Provided that, if no such order of assessment is made within four years from the end of the year to which such returns relate, then such returns shall be deemed to have been accepted.]

(3) Where a registered dealer has not filed the 8[return in respect of any period] by the prescribed date, then the Commissioner may, 9[*****], serve on the dealer a notice requiring him to attend on a date and at a place specified therein and after giving the dealer a reasonable opportunity of being heard, proceed to assess, to the best of his judgment, the amount of tax due from him:

Provided that, no order of assessment under this sub-section shall be made after the expiry of 10[five years] from the end of 11[the year containing the said period].

12[13[(3A) Notwithstanding anything contained in sub-section (2) or sub-section (3), an order of assessment, in respect of any period ending on or before the 31st March 2008, may be made under the respective provisions within a period of seven years from the end of the year containing the said period.]

^{13a}[Provided that, in respect of the period commencing on or after the 1st April 2005 and ending on or before the 31st March 2006, an order of assessment under the respective provisions may be made on or before the 30th June 2013.]

(4) Where the Commissioner has reason to believe that a dealer is liable to pay tax in respect of any period, but has failed to apply for registration or has failed to apply for registration within the time as required by or under this Act, the Commissioner may 14[*****], after giving the dealer a reasonable opportunity of being heard, proceed to assess, to the best of his judgement, where necessary, the amount of tax, if any, due from the dealer in respect of that period, and any period or periods subsequent thereto:

Provided that, no order of assessment under this sub-section shall be made after the expiry of eight years from the end of the said financial year containing the said period.

15[(5) (a) 16[^{16a}{Where the prescribed authority has reason to believe}that the tax has been evaded or sought to be evaded or the tax liability has not been disclosed correctly or excess set-off has been claimed by any dealer or person] in respect of any period or periods by not recording or recording in an incorrect manner, any transaction of sale or purchase, or that any claim has been incorrectly made, then in such a case notwithstanding that any notice for assessment has been issued under other provisions of this section or any other section of this Act, the prescribed authority may, after giving such dealer or person a notice in the prescribed form and a reasonable opportunity of being heard, initiate assessment of the dealer or person in respect of such transaction or claim.

^{16b}[Provided that, where,—

1. a registered dealer has claimed refund in his last return or a revised return containing last day of the year, or
2. an auditor has mentioned about eligibility for refund in his audit report under section 61,

then the prescribed authority may, subject to the conditions, restrictions and safeguards as may be prescribed, after adjusting the refund so claimed or, as the case may be, so mentioned, against the tax liability, interest and penalty, if any, determined in the proceedings initiated under this clause, grant net refund to such dealer or, as the case may be, determine the net tax liability :

Provided further that, the amount of refund claimed in the return filed or mentioned in the audit report filed under section 61, whichever is filed later, but not later than the 31st March 2019, in any case, may only be considered for the purposes of the first proviso.]

(b) During the course of any proceedings under section 64, if the prescribed authority is satisfied that the tax has been or is sought to be evaded, as provided under clause (a) by any dealer or person, the said authority may, after issuing a notice in the prescribed form and after giving a reasonable opportunity of being heard to such dealer or person, proceed to assess such dealer or person as provided in clause (a) in respect of any such transaction or claim relating to any period or periods and such authority shall, notwithstanding anything contained in section 59, be deemed to have the requisite jurisdiction and power to assess such dealer or person in respect of such transaction of sale or purchase or claim, covered by clause (a) and such assessment proceedings shall, for all purposes of this Act, be deemed to have been transferred to such authority.

(c) The assessment proceedings under this sub-section shall be without prejudice to the assessment proceedings in respect of the said period or periods under any other provisions of this Act by any authority who otherwise has the jurisdiction to assess such dealer or person in respect of other transactions of sale or purchase or any other claim which are not covered by clause (a) and clause (b).

(d) The assessment under this sub-section shall be made separately in respect of the transaction or claim relating to the said period or periods to the best of the judgment of the prescribed authority where necessary and irrespective of any assessment made under this sub-section, the dealer may be assessed separately under the other provisions of this section in respect of the said period or periods:

Provided that, once the dealer or person is assessed under this sub-section, no tax from such transaction or claim and penalty and interest, if any, consequent upon such tax shall be levied or demanded from such dealer or person, at the time of assessment to tax under the other provisions of this section in respect of the said period or periods relating to such transaction or claim.]

^{16c}[Provided further that in case a notice is issued under this sub-section on or after the 1st April 2015, no order of assessment under this sub-section shall be made after the expiry of six years from the end of the year, containing the transaction or, as the case may be, claim.]

17[**Explanation.-** For the purposes of this sub-section, “prescribed authority”, “the said authority”, “such authority” and “any authority” shall mean the Commissioner or, as the case may be, the authorities appointed under section 10 and other officers or persons to whom the Commissioner has delegated his powers in this behalf.]

^{17a}[(5A) After initiation of proceedings under sub-section (2), (3), (4) or, as the case may be, under sub-section (5), the Commissioner may, after considering all the documents or evidence produced by the dealer or, as the case may be, available with the Department, send his observations about the tax liability, by an intimation in the prescribed form, to the dealer before passing an assessment order under the respective sub-section. Such intimation shall be communicated in the prescribed manner to the dealer not later than six months before the date of expiry of the period of limitation for assessment under the respective sub-section under which the assessment order could be passed. If the dealer agrees with all the observations in the intimation and files the return or, as the case may be, a revised return under clause (c) of sub-section (4) of section 20 and also makes the full payment of tax as per such returns and also applicable interest, then a confirmation order shall be passed in the prescribed manner under this sub-section and the assessment proceedings shall be deemed to have been closed.

(5B) The provisions of sub-section (5A) shall also be applicable to the assessment proceedings under sub-section (2), (3), (4) or, as the case may be, (5) pending on the 1st April 2016.]

18[(6) If the Commissioner is of the opinion that, in respect of any period covered by a return, any turnover of sales or of purchases has not been disclosed, or that tax has been paid at a lesser rate, set-off has been wrongly claimed, or deduction has been wrongly claimed, then, notwithstanding anything contained in 19[****] the other provisions of this section, the Commissioner may

20[*****] serve a notice in the prescribed form on the dealer and proceed to assess him in respect of the said period after giving him a reasonable opportunity of being heard:

Provided that, the assessment order shall be passed, by the Commissioner to the best of his judgment, where necessary, within six years from the end of the year containing the said period.]

(7) Where a fresh assessment has to be made under this section to give effect to any finding or direction contained in any order made under this Act including an order made by the Tribunal or the High Court or the Supreme Court, then, notwithstanding anything contained in this section, ²¹[such assessment shall be made within a period of ^{21a}[twenty four months], if the said order is made by the appellate authority in first appeal and in any other case, within a period of thirty-six months from the date of communication of such findings or direction contained in the said order to the assessing authority or, as the case may be, to the Commissioner]:

Provided that, if a certified copy of the said order is supplied by ²²[the dealer concerned to the assessing authority or, as the case may be, to the Commissioner earlier than the said date of communication, then the said period of ^{22a}[twenty four months] or, as the case may be, of thirty-six months] shall be counted from the date of the said supply.

(8) The Commissioner may call for the record of any matter and conduct an examination in respect of the same, in the manner as provided in sub-section (2), call for the books of accounts and other evidence in such matter and after hearing the dealer concerned pass an appropriate order of assessment in the matter notwithstanding the fact that in a similar matter, the Tribunal has given a decision against the State Government or the Commissioner, if in such matter the State Government or the Commissioner has already filed an appeal before the appropriate forum against the order of the Tribunal and such appeal is pending before such appropriate forum:

Provided that, no order of recovery of the dues including the penalty or interest or forfeiture shall be passed by the Commissioner in such case, pending decision by such forum, in the matter, and on decision of the appropriate forum, the Commissioner shall modify the order in accordance with the order of such forum after giving the dealer concerned, an opportunity of being heard.

²³[(9) *****]

24[(10) A dealer or a person may be assessed under a single notice and by a single order of assessment in respect of more than one period covered by a return so long as all such periods are comprised in one year.]

²⁵[Provided that, in respect of the period commencing on or after the 1st April 2011, in case a dealer is required under the rules, to file more than one return in different forms prescribed, then such dealer may be assessed separately for each form of return for the said period.]

26[(11) Where a dealer has been assessed under sub-section (2), ^{26a}[(3), (4) or, as the case may be,(5)] and he makes an application in the prescribed form to the Commissioner within thirty days of the date of service of the assessment order, for cancellation of the assessment on the ground that he had not been able to attend or remain present before the Commissioner at the time of hearing when the assessment order had been passed, the Commissioner shall, after verifying that the contention of the applicant is correct and that the prescribed conditions have been fulfilled, cancel, by order in writing ²⁷[within three months from the end of the month in which such application is made], the said assessment including any penalty or interest levied in relation to or in consequence of the said assessment and shall make a fresh assessment in accordance with the provisions of sub-section (2), ^{26a}[(3), (4) or, as the case may be,(5)], including levy of interest or penalty, as the case may be :

Provided that, only one application for cancellation shall be entertained under this sub-section in respect of any period of assessment.

²⁸[Provided further that, if no order is passed within the aforesaid period of three months, then the assessment order shall be deemed to be cancelled.]

²⁹[Provided also that, no application under this sub-section shall be entertained, in case the assessment order is passed, on or after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017.]

(12) Notwithstanding anything contained in sub-section (2), ^{26a}[(3), (4) or, as the case may be,(5)], the fresh order of assessment as provided under sub-section (11) may be passed before the expiry of a period of eighteen months from the date of service of the cancellation order] ³⁰[or, as the case may be, from the date on which the assessment order is deemed to have been cancelled under the second proviso to sub-section (11).]

³¹[(13) Notwithstanding anything contained in this section, in case of a dealer, who undertakes the construction of flats, dwellings or buildings or premises and transfers them in pursuance of an agreement alongwith land or interest underlying the land and in whose case, the limitation for making an order of assessment, for any of the periods, expires on the 31st March 2014, then the order of assessment, for such periods, may be made on or before the 30th September 2015.]

1. Sub-section (1) was substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005

1a This proviso was substituted by Mah. Act No.VIII of 2013 dated the 20th April 2013 w.e.f. 1.5.2013. Prior to substitution the proviso read as: “Provided that, if after the assessment order is passed, the dealer submits the return for the said period alongwith evidence of payment of tax due as per the return or submits evidence of return for the said period having been filed before the passing of the assessment order along with evidence of payment of tax due as per the return, then the Commissioner shall cancel, by order in writing, the said assessment order and after such cancellation, the dealer may be assessed in respect of the said period under the other provisions of this section:”

2. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005

3. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005

4. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005

5. This Portion was deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005

6. These words were substituted by Ordinance No.VI of 2011 dated the 10th March 2011 w.e.f.1st April 2005

7. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

7a This proviso added by Mah. Act No.IV of 2013 dated the 12th April 2013.

7b This sub-section was inserted by Mah. Act No.XV of 2016 dated the 26th April 2016 w.e.f. 26.4.2016.

8. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

9. These words were deleted by Ordinance No.VI of 2011 dated the 10th March 2011 w.e.f.1st April 2005

10. These words were substituted by Ordinance No.VI of 2011 dated the 10th March 2011 w.e.f.1st April 2005

11. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

12. Sub-section (3A) inserted by Mah. XXV of 2007 w.e.f. 15.8.2007 dt. 6th August 2007

13. Sub-section (3A) was substituted by Ordinance No. VI of 2011 dated the 10th March 2011 w.e.f. 1st April 2005

3A. Where a notice for assessment under sub-section (3) of section 21 has been served on the dealer, the Commissioner shall assess, to the best of his judgement, the amount of tax due from him:

Provided that, no order of assessment under this sub-section shall be made after the expiry of seven years from the end of the year containing the period in respect of which the notice for assessment has been issued.

13a This proviso added by Mah. Act No. IV of 2013 dated the 12th April 2013.

14. These words were deleted by Ordinance No. VI of 2011 dated the 10th March 2011 w.e.f. 1st April 2005. Earlier these words read as: "at any time within five years from the end of the year in which such period occurs".

15. Sub-section (5) was substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005

16. This portion was substituted by Mah. Act No. XII of 2010 dt. 29.04.2010 w.e.f. 1st May, 2010. Prior to substitution the "Portion" was read as under:- "During the course of any proceedings under section 64, in case of any dealer or person, if the prescribed authority is satisfied that tax has been sought to be evaded"

16a. The words, "During the course of any proceedings under this Act, if the prescribed authority is satisfied" were substituted by Mah. Act XVII of 2015 dated 18.4.2015 w.e.f. 1.4.2015.

16b. These provisos were inserted by Mah. Act No. XVI of 2019 dated 9th July 2019.

16c. This proviso was added by Mah. Act XVII of 2015 dated 18.4.2015 w.e.f. 1.4.2015.

17. This "Explanation" was added by Mah. Act No. XII of 2010 dt. 29.04.2010 w.e.f. 1st May, 2010

17a. These sub-sections were inserted by Mah. Act No. XV of 2016 dated the 26th April 2016 w.e.f. 26.4.2016.

18. Sub-section (6) was substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

19. These words were deleted by Ordinance No. VI of 2011 dated the 10th March 2011 w.e.f. 1st April 2005

20. These words were deleted by Ordinance No. VI of 2011 dated the 10th March 2011 w.e.f. 1st April 2005. Earlier words read as: "at any time within five years from the end of the year containing the said period"

21. This portion was substituted by Mah. Act No. XXXI of 2017, dated the 15th April 2017 w.e.f. 15.4.2017. Prior to substitution this portion was read as: "such assessment shall be made within a period of thirty-six months from the date of communication of such finding or, direction contained in the order, as the case may be, *[to the Commissioner]"

* These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

21a These words were substituted for the words "eighteen months" by Mah Act No. LXVIII of 2018 dated the 14th December 2018 w.e.f. 24th October 2018.

22. This portion was substituted by Mah. Act No. XXXI of 2017, dated the 15th April 2017 w.e.f. 15.4.2017. Prior to substitution this portion was read as: “the dealer concerned *[to the Commissioner] earlier than the said date of communication, then the period of thirty six months”

*These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

22a These words were substituted for the words “eighteen months” by Mah Act No. LXVIII of 2018 dated the 14th December 2018 w.e.f. 24th October 2018.

22 This sub-section was deleted by Mah. Act No. XXVII of 2014 dated the 26th June 2014. Prior deletion this sub-section read as under:

“(9) The Commissioner, may on an application in the prescribed form made by any dealer, call for and examine the record of any proceeding in which an assessment is pending and if he considers that having regard to the nature of the case or the amount involved or for any other reason, it is necessary or expedient to do so, he may issue such directions as he thinks fit for the guidance of the assessing authority in charge of the case to enable him to complete the assessment and such directions shall be binding on the assessing authority:

Provided that, no direction which is prejudicial to the dealer shall be issued without giving the dealer a reasonable opportunity of being heard. However, no direction as to the lines on which any investigation connected with the assessment should be made shall be deemed to be a direction prejudicial to the dealer.”

23. Sub-section (10) was added by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005

24. This proviso was inserted by Mah. Act No. XXVII of 2014, dated the 26th June 2014

25. Sub-sections (11) & (12) were added by Mah. Act No. XXXII of 2006, dt. 5th August 2006 w.e.f. 20.6.2006

26a. The brackets, figures and words “(3) or (4)” were substituted by Mah. Act No. XVII of 2015 dated 18.4.2015 w.e.f. 1.4.2015.

26. These words were inserted by Mah. Act No. XXVII of 2014 dated the 26th June 2014.

27. This proviso was added by Mah. Act No. XXVII of 2014 dated the 26th June 2014.

28. This proviso was added by Mah. Act No. XXXI of 2017 dated the 15th April 2017.

29. These words were added by Mah. Act No. XXVII of 2014 dated the 26th June 2014.

30. This sub-section is added by Mah. Ordinance No. VII of 2014 dated 3.3.2014.

Rectification of mistakes

24. Rectification of mistakes :-

(1) The Commissioner may, at any time within two years from the end of a financial year in which any order passed by him has been served, on his own motion, rectify any mistake apparent on the record, and shall within the said period or thereafter rectify any such mistake which has been brought to his notice within the said period, by any person affected by such order:

Provided that, no such rectification shall be made if it has the effect of enhancing the tax or reducing the amount of a refund or interest payable on refund, unless the Commissioner has given notice in writing in the prescribed form to such person of his intention to do so and has allowed such person a reasonable opportunity of being heard. An application for rectification shall not be

rejected on the ground that there is no mistake apparent on record unless the person concerned has been given a reasonable opportunity of being heard :

Provided further that, where a dealer has applied in the prescribed form within the said period of two years for rectification of the said order and specified in his application, the quantum by which the amount payable as per the said order should be reduced, then the Commissioner shall, without prejudice to the other provisions of this Act including levy of interest, stay the recovery of such quantum till the disposal of the application for rectification.

(2) Where any dealer or person has recorded in his books of accounts or, as the case may be, has claimed in the returns that no tax is payable or that the tax is payable at a reduced rate on any transaction of sale on account of any declaration or certificate to be received from the purchasing dealer or person and he has not produced such certificate or declaration before the passing of the order of assessment under section 23 for any reason whatsoever in which assessment order the claim is disallowed, then at any time within two years from the end of the financial year in which the said order has been served, he may, unless he has filed an appeal against the said order, apply to the Commissioner for rectification of the order on the ground that he has received such declaration or certificate and is in a position to produce the same and thereupon the Commissioner shall hold such inquiry as he may deem fit and after hearing the applicant, rectify the assessment order if the application is in order:

Provided that, in respect of any assessment order sought to be rectified, only one application for rectification shall be entertained under this sub-section.

[(2A) Where any dealer has claimed set-off in the returns but such set-off is not confirmed before the passing of the order of assessment under section 23 for any reason whatsoever, then, at any time within two years from the end of the financial year in which the said order of assessment has been served, he may,—

- (a) if he has not filed an appeal against the said order, or
- (b) if he has filed an appeal against the said order, and he has withdrawn the entire appeal,

apply to the Commissioner for rectification of the order on the ground that the said set-off may be confirmed and is in a position to produce the necessary evidence for the same and thereupon, the Commissioner shall hold such inquiry as he may deem fit and after hearing the applicant, rectify the assessment order, if the claim for set-off is confirmed:

Provided that, in case the applicant covered by clause (b) above has filed an application under this sub-section, then the amount of dues, which was stayed earlier before withdrawal of appeal, shall not be recovered, till the disposal of such application.]

(3) The provisions of sub-section (1) shall apply *mutatis mutandis* to the rectification of a mistake by the Tribunal or an appellate authority as they apply to the rectification of a mistake by the Commissioner :

Provided that, where any matter has been considered and decided in any proceeding by way of appeal or review in relation to any order or part of an order, the authority passing the order of appeal or review, may, notwithstanding anything contained in this Act, rectify the order or part of the order on any matter other than the matter which has been so considered and decided.

(4) Where any such rectification has the effect of reducing the amount of the tax or penalty or interest or the amount of forfeiture, the Commissioner shall, refund any amount due to such person in accordance with the provisions of this Act.

(5) Where any such rectification has the effect of enhancing the amount of the tax or penalty or interest or the amount of forfeiture or reducing the amount of the refund, the Commissioner shall recover the amount due from such person in accordance with the provisions of this Act.

1. This sub-section (2A) was inserted by Mah. Act No. XIV of 2019 dated the 9th July 2019.

Review

25. Review :-

1[(1) After any order including an order under this section or any order in appeal is passed under this Act, rules or notifications, by any officer or person subordinate to him, the Commissioner may, of his own motion or upon information received by him, call for the record of such order and examine whether,—

(a) any turnover of sales or purchases has not been brought to tax or has been brought to tax at lower rate, or has been incorrectly classified, any claim is incorrectly granted or that the liability to tax is understated, or

(b) in any case, the order is erroneous, in so far as it is prejudicial to the interests of revenue,

and after examination, may, by serving on the dealer a notice in the prescribed form, pass an order to the best of his judgment, where necessary.

(2) (a) For the purpose of the examination and passing of the order, the Commissioner may require, by service of notice in the prescribed form, the dealer to produce or cause to be produced before him such books of accounts and other documents or evidence which he thinks necessary for the purposes aforesaid.

(b) No order under this section shall be passed after the expiry of five years from the end of the year in which the order passed by the subordinate officer has been served on the dealer.

(c) Where in respect of any order or part of the said order passed by the subordinate officer, an order has been passed by any appellate authority including the Tribunal, or such order is pending for decision in appeal, or an appeal is filed, then, whether or not the issues involved in the examination have been decided or raised in appeal, the Commissioner may within five years of the end of the year in which the said order was passed by the subordinate officer has been served on the dealer, make a report to the said appellate authority including the Tribunal regarding his examination or the report or the information received by him and the said appellate authority including the Tribunal shall thereupon, after giving the dealer a reasonable opportunity of being heard, pass an order to the best of its judgment, where necessary. For the purposes of section 26, such order shall be deemed to be an order passed in appeal.]

(3) If the State Government or the Commissioner has initiated any proceeding before an appropriate forum, against a point which is decided against the State by a judgment of the Tribunal, then the Commissioner may, in respect of any order, other than the order which is the subject matter of the judgement, call for the record, conduct an examination as aforesaid, record his findings, call for the said books of accounts and other evidence, hear the dealer and pass an order as provided for under this section as if the point was not so decided against the State, but shall stay the recovery of the dues including interest, penalty or amount forfeited, in so far as they relate to such point until the decision by the appropriate forum and after such decision may modify the order of review, if necessary, after giving the dealer a reasonable opportunity of being heard.

(4) No proceedings under this section shall be entertained on any application made by a dealer or a person.

1 Sub-sections (1) & (2) were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Appeals

26. Appeals :-

(1) 1[An appeal from every order, not being an order mentioned in sub-section (2) of this section and sub-section (2) of section 85] passed under this Act or rules or notifications, shall lie if the order is made,-

(a) by a Sales Tax Officer or an Assistant Commissioner, or any other officer sub-ordinate thereto, to the Deputy Commissioner;

(b) by a Deputy Commissioner or Senior Deputy Commissioner, to the Joint Commissioner;

(c) by a Joint Commissioner, ^{1a}[Additional Commissioner, Advance Ruling Authority] or the Commissioner, to the Tribunal.

(2) In the case of an order passed in appeal by a Deputy Commissioner or a Joint Commissioner, a second appeal shall lie to the Tribunal.

(3) Every order passed in appeal by the Tribunal under this section, shall, subject to the provisions of sections 24 and 27, be final and every order passed in appeal by any other appellate authority, shall, subject to the provisions of sections 2[24, 25 and 27], be final.

(4) Subject to the provisions of sections 80 and 81, no appeal including a second appeal shall be entertained unless it is filed within sixty days from the date of the communication of the order appealed against.

(5) Subject to such rules of procedure as may be prescribed, every appellate authority (both in the first appeal and the second appeal) shall have the following powers, namely:-

(a) in an appeal against an order of assessment, it may confirm, reduce, enhance or annul the assessment :

Provided that, where the appeal is filed before the Tribunal, the Tribunal may set aside the assessment and refer the case back to the assessing authority for making a fresh assessment in accordance with the direction given by it and after making such further inquiry as may be necessary; the assessing authority shall thereupon proceed to make such fresh assessment and determine, where necessary, the amount of tax payable on the basis of such fresh assessment;

(b) in an appeal against an order imposing a penalty, the appellate authority may confirm or cancel such order or modify it in accordance with the provisions of this Act;

(c)³[*****]

(d) in any other case, the appellate authority may pass such order in the appeal as it deems just and proper:

Provided that, the appellate authority shall not enhance an assessment or a penalty or interest or sum forfeited or reduce the amount of set-off or refund of the tax, unless the appellant has been given a reasonable opportunity of showing cause against such enhancement or reduction.

⁴[Provided further that, in respect of any appeal against an order of assessment, wherein dealer was not able to attend or remain present before the assessing authority at the time of hearing when the assessment order had been passed, then the appellate authority in first appeal may set-aside the said assessment order,—

1. within nine months from the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017, if the appeal is filed prior to the date of commencement of the said Act,
2. within six-months from the date on which the said appeal has been filed, if the appeal is filed on or after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017,

and refer the case back to the assessing authority for making a fresh assessment under sub-section (7) of section 23.]

Explanation.- While disposing of an appeal, the appellate authority may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that such matter was not raised before it by the appellant or that no order was made in the said proceedings regarding such matter.

(6) The Appellate authority or the Tribunal, as the case may be, may, while admitting the appeal, pending the disposal of the appeal, stay the order appealed against in full or part, subject to such conditions or restrictions as it may deem necessary including a direction for depositing of a part or whole of the disputed amount by the appellant.

⁵[Provided that, in case of an appeal filed on or after the 1st July 2014 against any order, in which claim against declaration of certificate, has been disallowed on the grounds of non-production of such declarations or, as the case may be, certificates then,-

1. where such appeal is filed after two years from the end of the year to which such claim relates, then the stay shall not be granted unless the appellant makes 100 per cent. payment of tax, in respect of such claim,
2. where such appeal is filed before the expiry of two years from the end of the year to which such claim relates, the stay, if any, shall stand vacated, if the dealer fails to produce the required declaration before the expiry of the said period of two years.

Explanation.- For the purpose of computing payment in the appeal, mentioned in the above clauses, the amount of part payment made earlier, if any, shall be included.]

⁶[[Provided further that], if at the request of the appellant, the appellate authority or Tribunal has granted three adjournments or the appellant fails to attend on the date fixed for hearing by the appellate authority or Tribunal on three occasions, whether consecutive or not then,-

1. (i) the stay, if any, shall not be continued unless an amount equal to fifteen per cent. of the amount so disputed in appeal or rupees fifteen crore, whichever is less is paid into the Government Treasury within the time mentioned in the order by the appellate authority or the Tribunal for this purpose.

Explanation.- The amount of fifteen per cent. or rupees fifteen crore referred to above shall be inclusive of any part payment made earlier towards the disputed amount;

(ii) if the appellant fails to pay the amount so enhanced, within such time as mentioned in the order by the appellate authority or Tribunal, the amount in dispute shall be recoverable and all orders to the contrary shall stand vacated;

1. the appellate authority or Tribunal shall accordingly modify the order of stay, if any, pending the disposal of the said appeal;

(c) notwithstanding anything contained in clause (i) of sub-section (2) of section 85, no appeal shall lie against the order passed under clause (a) above.]

⁸[(6A) No appeal against an order, passed on or after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017, shall be filed before the appellate authority in first appeal, unless it is accompanied by the proof of payment of an aggregate of the following amounts, as applicable,—

(a) in case of an appeal against an order, in which claim against declaration or certificate, has been disallowed on the ground of non-production of such declaration or, as the case may be, certificate then, amount of tax, as provided in the proviso to sub-section (6),

(b) in case of an appeal against an order, which involves disallowance of claims as stated in clause (a) above and also tax liability on other grounds, then, an amount equal to 10 per cent. of the amount of tax, disputed by the appellant so far as such tax liability pertains to tax, on grounds, other than those mentioned in clause (a),

(c) in case of an appeal against an order, other than an order, described in clauses (a) and (b) above, an amount equal to 10 per cent. of the amount of tax disputed by the appellant,

(d) in case of an appeal against a separate order imposing only penalty, deposit of an amount, as directed by the appellate authority, which shall not in any case, exceed 10 per cent. of the amount of penalty, disputed by appellant:

Provided that, the amount required to be deposited under clause (b) or, as the case may be, clause (c), shall not exceed rupees fifteen crores.

(6B) No appeal shall be filed, before the Tribunal, against an order, which is passed on or after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017, unless it is accompanied by the proof of payment of an aggregate of following amounts, as applicable,—

(a) in case of an appeal against an order, in which claim against declaration or certificate has been disallowed on the grounds of non-production of such declarations or, as the case may be, certificates then, amount of tax, as provided in the proviso to sub-section (6),

(b) in case of an appeal against an order, which involves disallowance of claims as stated in clause (a) above and also tax liability on other grounds, then, an amount equal to 10 per cent. of the balance amount of disputed tax, so far as such tax liability pertains to tax, on grounds, other than those mentioned in clause (a),

(c) in case of an appeal against an order, other than an order, described in clauses (a) and (b) above, an amount equal to 10 per cent. of the balance amount of disputed tax,

(d) in case of an appeal against any other order, an amount, as directed by the Tribunal:

Provided that, the amount required to be deposited under clause (b) or, as the case may be, clause (c), shall not exceed rupees fifteen crores.

Explanation.— For the purposes of clause (b) or clause (c) of sub-section (6B), the expression, “balance amount of disputed tax” shall mean an amount of disputed tax, which remains outstanding, after considering the amount paid, as directed by the appellate authority in first appeal under clause (b) or, as the case may be, clause (c), respectively of sub-section (6A).

(6C) The appellate authority or, as the case may be, Tribunal shall stay the recovery of the remaining disputed dues, in the prescribed manner, on filing of an appeal under sub-section (6A) or, as the case may be, sub-section (6B).]

⁹[Explanation.—For the removal of doubts, it is hereby clarified that, the provisions of sub-sections (6A), (6B) and (6C) shall be applicable for any appeal, against all such orders, referred to in those sub-sections, irrespective of the period to which the order, appealed against, relates or irrespective of the date on which the proceedings in respect of such order have commenced.]

(7) Every appellate authority including the Tribunal, in so far as it may, shall decide the appeals pending before it, 10[by such priorities as may be prescribed:]

Provided that, if a person has attained the age of seventy-five years or more and such person is the proprietor of the business, a partner in a firm or a director having substantial interest in a company being a body corporate, then on an application in the prescribed form made by him in this regard, any appeal made by the proprietary concern, partnership firm or the company shall be decided on priority to the exclusion of all other appeals.

1 These words were substituted for the words “An appeal, from every original order, not being an order mentioned in sub-section (2) of section 85” and shall be deemed to have been substituted w.e.f. 1st April, 2005 by Mah. Act No. XXV of 2007, dt. 6.8.2007.

1a. The words “Additional Commissioner” were substituted by Mah. Act No. XV of 2016 dated 26.4.2016 w.e.f. 1.5.2016.

2 These figures and word were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

3 This clause was deleted by Mah Act No. XV of 2011 dated the 21st April 2011. Earlier this clause read as under:

“(c) in an appeal against an order levying interest the appellate authority may confirm or cancel such order or modify it in accordance with the provisions of this Act.

4. This proviso inserted by Mah. Act No. XXXI of 2017 dated the 15th April 2017.

5. This proviso inserted by Mah. Act No. XXVII of 2014 dated the 26th June 2014.

6. This proviso was inserted by Mah. Act No. VIII of 2012 dated 25.4.2012 w.e.f. 1.5.2012.

7. These words were substituted for the word “Provided that” by Mah. Act No. XXVII of 2014 dated the 26th June 2014.

8. These sub-sections were inserted by Mah. Act No. XXXI of 2017 dated the 15th April 2017.

9. This Explanation was inserted by Mah. Act No. XIV of 2019 dated the 9th July 2019.

10. This Portion was substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Regulating filing of appeal by the Commissioner.

1[26A. Regulating filing of appeal by the Commissioner.-

1. The Commissioner may, from time to time, issue orders, instructions or directions for fixing such monetary limits as he may deem fit, for the purpose of regulating the filing of appeal as per the provisions of section 27.

2. Where, in pursuance of the orders, instructions or directions issued under sub-section (1), the Commissioner has not filed any appeal on any issue in the case of any appellant for any assessment period, it shall not preclude the Commissioner from filing an appeal on the same issue in the case of-

a) the same appellant for any other assessment period; or

b) any other appellant for the same or any other assessment period.

3. Notwithstanding that no appeal has been filed pursuant to the orders or instructions or directions issued under sub-section (1), it shall not be lawful for any appellant, being a party in any appeal, to contend that the Commissioner has acquiesced in the decision on the disputed issue by not filing an appeal in any case.

4. The Court or, as the case may be, Tribunal hearing such appeal shall have regard to the orders, instructions or directions issued under sub-section (1) and the circumstances under which such appeal was filed or not filed in respect of any case.

5. Every order, instruction or direction which has been issued by the Commissioner fixing monetary limits for filing an appeal shall be deemed to have been issued under sub-section (1) and the provisions of sub-sections (2), (3) and (4) shall apply accordingly.

6. The provisions of sub-section (7) of section 23, so far as it relates to the giving effect to the Court order, shall also apply to the cases where the Commissioner has not filed the appeal as provided under sub-section (2) of this section.]

1. This section was inserted by Mah. Act No. VIII of 2012 dated 25.4.2012 w.e.f.1.5.2012

Speedy disposal of various proceedings.

1. [26B. Speedy disposal of various proceedings:

The State Government may enact a scheme by a notification in the Official Gazette providing for,—

1. the speedy disposal of proceedings of assessments under section 23, rectifications under section 24, review under section 25, appeals under section 26, refund proceedings and recovery proceedings;
2. criterion for selection of cases for assessment; and
3. criterion for selection of cases for withdrawal of pending proceedings referred in clause (i).]

1. This section was inserted by Mah. Act No. XLII of 2017 dated the 29th May 2017.

Appeal to High Court

27. Appeal to High Court:-

(1) An appeal shall lie to the High Court from every order passed by the Tribunal including a judgment by way of advance ruling, if the High Court is satisfied that the case involves a substantial question of law.

(2) The Commissioner or the applicant before the Tribunal aggrieved by any order passed by the Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be,-

(a) filed within ¹[one hundred and eighty days] from the date on which the order appealed against is received by the assessee or the Commissioner;

(b) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(4) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that, nothing in this sub-section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(5) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(6) The High Court may determine any issue which,-

(a) has not been determined by the Tribunal; or

(b) has been wrongly determined by the Tribunal, by reason of a decision on such question of law as is referred to in sub-section (1).

(7) The payment of any amount due to be paid by the applicant before the Tribunal or, as the case may be, by the Commissioner in accordance with the order of the Tribunal in respect of which an appeal has been preferred under this section, shall not be stayed by the High Court pending the final disposal of such appeal, but if such amount is varied as the result of the final disposal of the appeal, the difference shall be recovered or, as the case may be, refunded in accordance with the provisions of this Act.

(8) Where the High Court delivers a judgment in an appeal filed before it, effect shall be given by the Tribunal to the order passed in the appeal on the basis of a certified copy of the judgment:

Provided that, for the purposes of this sub-section, the Tribunal may accept a certified copy of the judgment furnished by the Commissioner or, as the case may be, by the dealer.

(9) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908 (V of 1908), relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.

1. These words were substituted for the words "one hundred and twenty days" by Mah. Act No. XXXI of 2017, dated the 15th April 2017.

Classification of turnover

[28.Modification of tax liability:-

Where any Court or Tribunal or any Appellate authority or any other authority passes an order in appeal or review which has the effect that,-

(i) any tax assessed under this Act or any other Act should have been assessed under the provisions of an Act other than that under which it was assessed, or

(ii) any claim allowed or disallowed modifies the tax liability under this Act or any other Act,

then in consequence of such order, such turnover or part thereof may be assessed or, as the case may be, tax liability may be determined, under this Act in accordance with the allowance or disallowance of such claim and may be subjected to tax at any time within five years from the date of such order:

Provided that, where any assessment has already been made, the assessment shall be modified after giving the dealer a reasonable opportunity of being heard, notwithstanding that any provision regarding limitation applies to such assessment period.]

1. This section was substituted by Mah. Act No. XVII of 2015 dt. 18.4.2015 w.e.f. 1.4.2015. Prior to substitution this section was read as under:

"28. Classification of turnover :-

Where any Court or Tribunal or any Appellate authority or any other authority passes an order in appeal or review to the effect that any tax assessed under this Act or any other Act should have been assessed under the provisions of a law other than that under which it was assessed, then in consequence of such order, such turnover or part thereof may be assessed to tax at any time within five years from the date of such order, and where any assessment has already been made, the assessment shall be modified after giving the dealer a reasonable opportunity of being heard, notwithstanding that any provision regarding limitation applies to such assessment period."

Determination of tax liability as per fair market price.

1[28A. Determination of tax liability as per fair market price: During the course of any proceedings under the Act, if the Commissioner is of the opinion that any transaction entered into by any dealer for sales price, which is below the prescribed fair market price for commodity for a prescribed class of dealers, so as to be liable, to pay tax less than the tax, which would have been otherwise become payable on such sales or purchases, then the Commissioner shall determine the tax liability as per the fair market price of such transaction while passing an order in the said proceedings.]

.....
.....
1. This section was inserted by Mah. Act No. XV of 2016 dated 26.4.2016 w.e.f. 1.4.2011.

Imposition of Penalty in certain instances

CHAPTER VI

PENALTY AND INTEREST

29. Imposition of penalty in certain instances:-

1[(1) ***]

1[(2) ***]

1a[(2A) While or after passing any order in respect of any dealer under any provisions of this Act, it appears to the Commissioner that, the dealer has failed to apply for registration as required under this Act or has carried on business as a dealer without being registered in contravention of the provisions of this Act, then the Commissioner may, after giving the dealer a reasonable opportunity of being heard, impose upon him, by way of penalty, a sum equal to the amount of tax payable by the dealer for the period during which he has carried on business as a dealer without being registered in contravention of the provisions of this Act.]

(3) 2[While or after passing any order] under this Act, in respect of any person or dealer, the Commissioner, on noticing or being brought to his notice, that such person or dealer has concealed the particulars or has knowingly furnished inaccurate particulars of any transaction liable to tax or has concealed or has knowingly mis-classified any transaction liable to tax or has knowingly claimed set-off in excess of what is due to him, the Commissioner may, after giving the person or dealer a reasonable opportunity of being heard, by order in writing, impose upon him, in addition to any tax due from him, a penalty 2a[not exceeding the amount of tax due but not less than twenty five per cent. of] the amount of tax found due as a result of any of the aforesaid acts of commission or omission.

(4) Where any person or dealer has knowingly issued or produced any document including a false bill, cash memorandum, voucher, declaration or certificate by reason of which any transaction of sale or purchase effected by him or any other person or dealer is not liable to be taxed or is liable to be taxed at a reduced rate or incorrect set-off is liable to be claimed on such transaction, the Commissioner may, after giving, the person or dealer a reasonable opportunity of being heard, by order in writing, impose on him in addition to any tax payable by him, a penalty equal to the amount of tax found due as a result of any of the aforesaid acts of commission or omission.

3[(5) Where a dealer has sold any goods and the sale is exempt, fully or partly, from payment of tax by virtue of any provision contained in sub-section (3), (3A), (3B) or (5) of section 8, and the purchaser fails to comply with the conditions or restrictions subject to which the exemption is granted, then the Commissioner may, after giving the said purchaser a reasonable opportunity of being heard, impose penalty on him equal to one and a half times the tax which would have become payable on the sale if the said exemption was not available on the said sale.]

(6) Where, any person or dealer contravenes the provision of section 86, so as to have the quantum of tax payable by him to be under-assessed, the Commissioner may, after giving the person or dealer a reasonable opportunity of being heard, by order in writing, impose on him, in addition to any tax payable by him a penalty equal to half the amount of tax which would have been under-assessed or 4[one thousand rupees], whichever is more.

(7) Where, any person or dealer has failed without reasonable cause to comply with any notice in respect of any proceedings, the Commissioner may, after giving the person or dealer a reasonable opportunity of being heard, by order in writing, impose on him, in addition to any tax payable by him, a penalty equal to 5[five thousand rupees].

5a[(7A) In case of a dealer, who has filed late return on or after the 1st August 2012, and has also paid the late fee, under sub-section (6) of section 20, the penalty in respect of such return, if any, imposed under sub-section (8) of this section, as it existed, shall not be recovered.]

6[(8) * * *]

(9) 7[(a) * * *]

7[(b) * * *]

(c) Where a dealer has filed a return 8[***] and such return is found to be not 9[complete and self-consistent], then the Commissioner may, after giving the dealer a reasonable opportunity of being heard, impose on him, by order in writing, a penalty of rupees one thousand. The levy of penalty shall be without prejudice to any other penalty which may be imposed under this Act.

10[(10) Where a person or dealer has collected any sum by way of tax in contravention of the provisions of section 60,—

1. he shall be liable to pay a penalty not exceeding two thousand rupees, and
2. in addition, any sum collected by the person or dealer in contravention of section 60 shall be forfeited to the State Government.

If the Commissioner, in the course of any proceeding under this Act or otherwise, has reasons to believe that any person has become liable to a penalty or forfeiture or both penalty and forfeiture of any sum under this sub-section, he may serve on such person a notice in the prescribed form requiring him on a date and at a place specified in the notice to attend and show cause why a penalty or forfeiture or both penalty and forfeiture of any sum as provided in this sub-section should not be imposed on him. The Commissioner shall thereupon hold an inquiry and shall make such order as he thinks fit. When any order of forfeiture is made, the Commissioner shall publish or cause to be published a notice thereof for the information of the persons concerned giving such details and in such manner as may be prescribed.]

11[(11) No order levying penalty under the foregoing provisions of this section shall be passed in respect of any period after 12[eight years] from the end of the year containing the said period.]

13[(11A) Notwithstanding anything contained in sub-section (11), penalty under this section may be imposed while passing an order under this Act.]

14[(12) *****]

(13) For the purposes of this section, Commissioner includes any appellate authority appointed or constituted under this Act.

1. Sub-sections (1) & (2) were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005

1a. This sub-section was inserted by Mah. Act No. VIII of 2012 dated 25.4.2012 w.e.f.1.5.2012.

1. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

2a. These words were substituted for the words “equal to” by Mah. Act No. XXVII of 2014 dated the 26th June 2014.

3. Sub-section (5) deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005 **and again** the “Sub-section (5)” was inserted by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006

4. Substituted for the words ”one hundred rupees” w.e.f. 1.5.2010 by Mah. Act No.XII of 2010 dt. 29th April 2010

5. Substituted for the words ”one thousand rupees” w.e.f. 1.5.2010 by Mah. Act No.XII of 2010 dt. 29th April 2010

5a. This sub-section (7A) was inserted by Mah. Act No. XXVII of 2014 dated the 26th June 2014.

6. Sub-section (8) was substituted by Mah. Act No. XVII of 2009, dt. 27.6.2009 w.e.f. 1st July, 2009. Prior to substituted the “Sub-section (8)” was read as under :-

“(8) Where, any person or dealer has failed without reasonable cause to file within the prescribed time, a return for any period as provided under section 20, *[X X X] the Commissioner may, after giving the person or dealer a reasonable opportunity of being heard, by order in writing, impose on him, in addition to any tax payable by him, a sum of **[rupees ten thousand] by way of penalty. Such penalty shall be without prejudice to any other penalty, which may be imposed under this Act :

Provided that, if the return is filed before the initiation of the proceeding for levy of penalty, the penalty shall be levied at ***[rupees five thousand] and in any other case, the penalty shall be levied at **[rupees ten thousand].”

* These words were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

** These words were substituted for the words “rupees two thousand” by Mah. Act No. VIII of 2008, dt. 31.3.2008, s.2(a) w.e.f. 1st May 2008 as per Notification No. VAT.1508/C.R.-8/Taxation-1, dt. 11th April, 2008.

*** These words were substituted for the words “rupees one thousand” by Mah. Act No. VIII of 2008, dt. 31.3.2008, s.2(b) w.e.f. 1st May 2008 as per Notification No. VAT.1508/C.R.-8/Taxation-1, dt. 11th April, 2008. (for Clarification refer Commissioner Tr. Cir. No. 13T of 2008, dt. 8.4.2008).

And again this sub-section was deleted by Mah. Act No. VIII of 2012 dated 25.4.2012 w.e.f.1.8.2012. Prior to deletion this sub-section read as:

“(8) Where, any person or dealer has failed to file within the prescribed time, a return for any period as provided in section 20, the Commissioner shall impose on him, a sum of rupees five thousand by way of penalty. Such penalty shall be without prejudice to any other penalty which may be imposed under this Act.”

7. These Paragraphs (a) & (b) were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

8. These words were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

9. These words were substituted by Mah. Act No. XIV of 2005, dt. 31-3-2005 w.e.f. 1.4.2005.

10. Sub-section (10) was substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

11. Sub-section (11) was substituted by Mah. Act No. XIV of 2005, dt. 31.3.2005 w.e.f. 1.4.2005.

12. These words were substituted for the “five years” by Mah. Act No. XII of 2010 dt.29.04.10 w.e.f. 1st May, 2010

13. This sub-section (11A) was inserted by Mah. Act No. XXVII of 2014 dated the 26th June 2014.

14. This sub-section (12) was deleted by Mah. Act No. XXVII of 2014 dated the 26th June 2014. Prior to deletion this sub-section (12) read as:

“(12) No order imposing a penalty under any of the foregoing sub-sections shall be made,-

(a) by a Sales Tax Officer or an Assistant Commissioner where the penalty exceeds rupees *[five lakh] except with the prior approval of the Deputy Commissioner;

(b) by a Deputy Commissioner **[or a Senior Deputy Commissioner], where the penalty exceeds rupees *** [ten lakh] except with the prior approval of the Joint Commissioner:

Provided that, nothing in this sub-section shall apply to any penalty which may be imposed by an appellate authority.

* These words were substituted by Mah. Act No. XIV of 2005, dt. 31.3.2005 w.e.f. 1.4.2005.

** These words were inserted by Mah. Act No. XIV of 2005, dt. 31.3.2005 w.e.f. 1.4.2005.

***These words were substituted by Mah. Act No. XIV of 2005, dt. 31.3.2005 w.e.f. 1.4.2005.

Interest payable by a dealer or person

30. Interest payable by a dealer or person:-

(1) A dealer who is liable to pay tax in respect of any year, and who has failed to apply for registration or has failed to apply for registration within the time as required by or under this Act, shall be liable to pay by way of simple interest, in respect of each of such years, in addition to the amount of tax payable in respect of such year, a sum calculated at the prescribed rate on the amount of such tax for each month or part thereof for the period commencing on the 1st April of the respective year to the date of the payment of tax. The amount of such interest shall be calculated by taking into consideration the amount of, and the date of, such payment, when the payment is made on different dates or in parts or is not made. When, as a result of any order passed under this Act, the said amount of tax is reduced, the interest shall be reduced accordingly and where the said amount is enhanced, 1[the interest on the enhanced amount shall be calculated *mutatis-mutandis* upto the date of such order]:

Provided that, in respect of any of such years, 2[the amount of interest payable] under this sub-section shall not exceed the amount of tax found payable for the respective year.

(2) A registered dealer who has failed to pay the tax within the time specified by or under this Act, shall be liable to pay by way of simple interest, in addition to the amount of such tax, a sum calculated at the prescribed rate on the amount of such tax for each month or paid thereof after the last date by which he should have paid such tax:

Provided that, in relation to the tax payable according to 3[the return, fresh return or as the case may be], 4[fresh return or revised return], the said dealer shall, notwithstanding anything contained in any other provision of this Act, be deemed not to have paid the amount of such tax within the time he is required by or under the provisions of this Act to pay it if he has not paid the full amount of such tax on or before the last date prescribed for furnishing of such return and accordingly, if he has not paid the full amount of such tax or has paid only the part of the amount of such tax by such date, he shall be liable under this clause for payment of interest after such date on the full or part, as the case may be, of the amount of tax which has not been paid by such date and where a dealer has furnished a 4[fresh return or revised return] and the amount of tax payable as per the 4[fresh return or revised return] exceeds the amount of tax payable as per the original return, then for the purposes of this sub-section, the dealer shall be deemed to have been required to pay the excess amount of tax at the time he was required to pay the tax as per the original return and accordingly he shall be liable to pay interest under this sub-section on the said excess amount of tax.

^{4a}[Provided further that, in case a dealer files an annual revised return, as provided under clause (b) or, as the case may be, clause (c) of sub-section (4) of section 20, then the interest shall be payable on the excess amount of tax, as per such annual revised return, from the dates mentioned in column (2) of the Table, till the date of payment of such excess amount of tax.

TABLE

Registration status in the year for which annual revised return is filed	Interest to be computed from
(1)	(2)
(a) Dealer, holding certificate of registration for whole year.	1st October of the year, to which the annual revised return relates.
(b) Certificate of registration granted, effective from any date up to the 30th September of the year to which revised return relates.	1 st October of the year, to which the annual revised return relates.
(c) Certificate of registration cancelled, effective on any date after the 30th September of the year to which revised return relates.	1 st October of the year, to which annual revised return relates.
(d) Certificate of registration granted, effective from any date after the 30th September of the year to which revised return relates.	effective date of registration.
(e) Certificate of registration cancelled, effective on any date prior to the 30th September of the year to which revised return relates.	effective date of cancellation of registration.]

^{4b}[Provided also that, in case a dealer, whose registration is deemed to be cancelled under sub-section (6A) of section 16, files an annual revised return, as provided under clause (b) or, as the case may be, clause (c), of sub-section (4) of section 20, for any period starting from the 1st April 2017, then the interest shall be payable on the excess amount of tax, payable as per such annual revised return from the prescribed dates by the prescribed class of dealers.]

(3) In the case of a registered dealer, in whose case, any tax other than the tax on which interest is leviable under sub-section (2) has remained unpaid upto one month after the end of the period of assessment, such dealer shall be liable to pay by way of simple interest, 5[a sum calculated at the prescribed rate on the amount of such tax] for each month or part thereof from the date next following the last date of the period covered by an order of assessment till the date of the order of assessment and where any payment of such unpaid tax whether in full or part is made on or before the date of the order of assessment, the amount of such interest shall be calculated by taking into consideration the amount and the date of such payment. If, as a result of any order passed under this Act, the said amount of tax is reduced, then the interest shall be reduced accordingly and where the said amount is

enhanced, then interest on the enhanced amount shall be calculated *mutatis mutandis* up to the date of such order from the said date next.

6[(4)

If,-

(a) after the

commencement of,-

(i) audit of the business of the dealer in respect of any period, or

(ii) inspection of the accounts, registers and documents pertaining to any period, kept at any place of business of the dealer, or

(iii) entry and search of any place of business or any other place where the dealer has kept his accounts, registers, documents pertaining to any period or stock of goods,

(b) in consequence of any intimation issued under sub-section (7) of section 63,

the dealer files one or more returns or, as the case may be, revised returns in respect of the said period, then he shall be liable to pay by way of interest, in addition to the amount of tax, if any, payable as per the return or, as the case may be, revised return, a sum equal to 25 per cent. of the additional tax payable as per the return or, as the case may be, revised return.]

⁷[Provided that, interest under this sub-section shall not be payable on account of the additional tax liability arising due to non-production of declarations or, as the case may be, certificates:

Provided further that, if the amount of tax paid as per revised return is less than ten per cent. of the aggregate amount of tax paid as per the original returns, in respect of the corresponding period, then no interest under this sub-section shall be payable.

Explanation.- For the purpose of this sub-section the expressions,-

1. "tax paid as per original returns" shall be deemed to include the amount of tax paid, as per the revised returns, filed before the commencement of proceedings specified in clause (a) or before the receipt of intimation specified in clause (b) of sub-section (4);
2. "tax paid" shall mean the amount of tax paid by such person or dealer, after the adjustment of set-off.]

⁸[(5) The State Government may, from time to time, by notification published in the *Official Gazette*, subject to such conditions mentioned therein, remit the whole or any part of the interest, in respect of any period, payable by any prescribed class of registered dealers,—

1. who were not able to pay the tax during the prescribed period, due to technical problems of the automation system of the Sales Tax Department, or
2. (ii) who obtained registration late.]

1. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

2. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

3. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

4. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005

4a. This proviso was added by Mah. Act No XVII of 2015 dated 18.4.2015 w.e.f. 1.4.2015

4b. This proviso was added by Mah. Act No. XLII of 2017 dated the 29th May 2017.

5. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

6. Sub-section (4) was deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005 **and again** the "sub-section (4) was added by Mah. Act No. XVII of 2009, dt. 27.6.2009 w.e.f. 1st July, 2009.

7. These provisos were added by Mah. Act No. XXVII of 2014 dated the 26th June 2014.

8. This sub-section was added by Mah. Act No. XXXI of 2017 dated the 15th April 2017.

Deduction of Tax at source

CHAPTER VII

PAYMENT OF TAX AND RECOVERY

31. Deduction of tax at source:-

1. (a) Subject to the provisions contained in clause (b), the Commissioner may, by a *notification in the Official Gazette, subject to such conditions and restrictions as may be specified in the notification, require any dealer or person or class of dealers or persons (hereinafter in this section referred to as "the employer.") to deduct the tax or such amount of tax as may be specified in the notification, payable on the purchases other than the purchases to which section 8 applies, effected by them in the period or periods specified in the said notification.

Explanation.- For the purposes of this section, the tax payable on purchases shall mean the sum collected separately from the said employer by way of sales tax by the supplier on the corresponding supplies effected by him in the said period or periods and the deduction is to be made from the sums payable to the supplier on account of the said supply.

(b) (i) The Commissioner may by a like *notification require any class of employers to deduct tax or such amount of tax as may be specified from and out of the amount payable [upto the 31st December 2018]1a[(excluding the amount, if any, separately charged as tax or service tax levied by the Government of India, by the contractor)] by such employer to a dealer to whom a works contract has been awarded, towards execution of the said works contract:

Provided that, the quantum of such deduction shall not exceed the quantum of tax payable towards such works contract:

Provided further that, no deduction shall be made from any payment made to any sub-contractor by a principal contractor where the principal contractor has assigned the execution of any works contract, in whole or in part, to the said sub-contractor:

Provided also that, no deduction as provided under this clause shall be made in respect of any sale or purchase to which section 8 applies.

Explanation.-Where any payment in the nature of an advance payment towards the execution of a works contract is made by an employer to a dealer and such amount is adjustable against the total contract value payable to the said dealer, then, for the purposes of this clause, the advance payment shall be deemed to be the amount paid towards the execution of the works contract only as and when such advance payment is adjusted, in part or otherwise, against the total amount payable towards the works contract.

2[(ii) Where on an application being made by any contractor in this behalf, the Commissioner is satisfied that the contract under reference is not a works contract and therefore justifies no deduction at all, he shall grant him such certificate :

Provided that, the Commissioner may, after giving the contractor a reasonable opportunity of being heard, reject such application or cancel or modify such certificate :

Provided further that, nothing in the said certificate shall affect the tax liability of the contractor.]

(iii) Where such certificate is produced by the contractor, before the employer, the employer shall, unless the certificate is cancelled or modified by the Commissioner, make deduction of tax in accordance with the said certificate. In the event of such certificate being cancelled or modified as provided, the employer shall make the deductions accordingly.

(2) For the purpose of this section, where any amount of tax referred to in sub-section (1) is credited to any account whether called the “suspense account” or by any other name, in the books of accounts of the employer, such crediting shall be deemed to be credit of such tax to the account of the employer and the provisions of this Act shall apply accordingly.

3[(3) * * * deleted w.e.f. 20-6-2006]

4[(4) Any amount or any sum deducted on or after the 1st April 2016 in accordance with the provisions of this section and paid to the State Government may be,-

(i) claimed as a payment of tax by the person making the said supply to the employer, or

(ii) transferred as a credit to the sub-contractor in the prescribed manner, if sub-contract has been awarded, in respect of the concerned contract.

The principal contractor shall be eligible to claim credit of such amount or sum, in the period in which the certificate for payment is furnished to him by the person deducting tax. The sub-contractor may claim the credit of such amount in the period in which the principal contractor has transferred the credit of such amount to him or in any subsequent period.]

^{4a}[Provided that, any amount paid by an employer, in accordance with the provisions of this section to the credit of the State Government during the period starting on or after the 1st July 2017 and ending on the 31st December 2018, may be claimed as credit in the prescribed manner and subject to the prescribed conditions, by the person making the supply to the employer or the concerned sub-contractor (if any).]

(5) Any employer deducting any sum in accordance with this section, shall pay within the prescribed time, the sum so deducted to the credit of the State Government. If the employer does not deduct or after deducting fails to pay the tax as required by this section, he shall be deemed not to have paid the tax within the time he is required by or under the provisions of this Act to pay it and all the provisions of this Act including the provisions relating to interest shall apply *mutatis mutandis* to such unpaid tax.

(6) The power to recover tax by deduction at source shall be without prejudice to any other mode of recovery.

(7) Every person deducting tax in accordance with the provisions of this section shall within such periods as may be prescribed, furnish to the person to whose account the credit of the tax is to be given under this section, a certificate in the prescribed form.

5[(8) Every employer liable to deduct tax at source shall in the prescribed manner apply to the Commissioner for allotment of a sales tax deduction account number. The number shall be mentioned in documents, statements and returns to be filed by him:

Provided that, if an employer is registered under the Act, then he shall not be required to apply under this sub-section.]

(9) Where tax is deductible at source by any employer, the person making the said supply shall not be called upon to pay tax himself to the extent to which the tax has been deducted in respect of the said supply [and not transferred to the sub-contractor. Similarly, the sub-contractor shall not be called upon to pay tax himself to the extent to which the tax has been transferred to him.]

7[(10) The employer, who has deducted and paid any amount in any period under the provisions of this section, shall in the prescribed form and manner by such date as may be prescribed, file return for the said period.

(11) The employer who has furnished a return under this section, discovers any omission or incorrect statement therein, may furnish a revised return in respect of the period covered by the said return on or before the expiry of a period of nine months from the end of the year to which the return relates.

(12) Where the employer has failed to apply for the sales tax deduction account number, as required under sub-section (8), then the Commissioner may, after giving the employer a reasonable opportunity of being heard, impose upon him, by way of penalty, a sum up to the amount of tax deductible by the employer, for the period during which, he had failed to obtain the sales tax deduction account number.

(13) Where the employer has failed to file the return as provided under sub-section (10) within the prescribe time, the Commissioner shall impose on him a sum upto rupees five thousand by way of penalty.]

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1. These words, figures and letters were inserted by Mah. Act No. XXVI of 2018 dated the 31st March 2018 w.e.f.1.4.2018.

1a These brackets and words were substituted for the brackets & words “(exceeding the amount of tax, if any, separately charged by the contractor)” by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006.

1. Sub-clause (ii) was substituted by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006. s.46(b). (for Clarification refer Commissioner Tr. Cir. No. 23T of 2006, dt. 11.9.2006). Prior to substituted the “Sub-clause (ii)” was read as under :-

“(ii) Where on an application being made by any contractor in this behalf, the Commissioner is satisfied that the contract under reference is separable and involves both a works contract and labour or is not a works contract and therefore justifies deduction of tax only as a part of the sum payable in respect of any works contract or, as the case may be, justifies no deduction at all, he shall grant him such certificate as may be appropriate :

Provided that, the Commissioner may reject such application, or on his own motion, cancel or modify such certificate, after giving the contractor a reasonable opportunity of being

heard: Provided further that, nothing in the said certificate shall affect the tax liability of the contractor.

3 Sub-section (3) deleted by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006. s.46(b). Prior to deleted the “Sub-section (3)” was read as under :-

“(3) Any registered dealer who is not covered as an employer under the said notification may apply to the Commissioner for making the provisions relating to the employers applicable to him and subject to such conditions and restrictions as may be prescribed, the Commissioner may, by order in writing, accept the request.

4 This sub-section was substituted by Mah. Act No. XV of 2016 dated 26.4.2016 w.e.f. 26.4.2016. Prior to this substitution, the sub-section read as under:

**[“(4) Any amount or any sum deducted in accordance with the provisions of this section and paid to the State Government may be claimed as a payment of tax by the person making the said supply and credit for the payment may be claimed by the said person in the period in which the certificate for payment is furnished to him by the person deducting tax in accordance with the provisions of this section.”]*

* Sub-section (4) substituted and shall be deemed always to have been substituted by Mah. Act No. XXXII of 2006, dt. 5.8.2006. Prior to substituted “Sub-section (4)” was read as under :-

(4) Any amount or any sum deducted in accordance with the provisions of this section and paid to the State Government shall be treated as a payment of tax on behalf of the person making the said supply and credit shall be given to the said person in respect of the relevant period for the amount so deducted and paid on the production of the certificate furnished under this section.

4a. This proviso was added by Mah. Act No. XXVI of 2018 dated the 31st March 2018 w.e.f. 1.7.2017.

5 This sub-section was inserted by by Mah. Act No. XV of 2016 dated 26.4.2016 w.e.f. 26.4.2016. Before this insertion, this sub-section stood deleted by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006. Prior to this deletion, the “Sub-section (8)” read as under :-

“(8) Every employer shall, in the prescribed time, apply to the Commissioner for allotment of a sales tax deduction account number. The number shall be quoted in such documents, Statements and returns as may be prescribed.”

6. These words were added by Mah. Act No. XV of 2016 dated 26.4.2016 w.e.f. 26.4.2016.

7. These sub-sections were added by by Mah. Act No. XV of 2016 dated 26.4.2016 w.e.f. 26.4.2016

Earlier Sub-section (10) was deleted by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006. Prior to deletion the “Sub-section (10)” were read as under :-

“(10) The employer shall within the prescribed time after the end of each year, file a return in such form and to such authority as may be prescribed. Any return filed on a floppy diskette, magnetic cartridge tape, CD-ROM or any other computer-readable media as may be prescribed, shall be deemed to be a return for the purposes of this section. While receiving the return on computer-readable media, the Commissioner shall carry out appropriate checks by scanning the documents filed on computer-readable media and the said media shall be duly authenticated by the Commissioner.”

1[*****]

Collection and payment towards tax

1[31A. *****)

1. This section was inserted by Mah. Act No. VIII of 2012 dated 25.4.2012 w.e.f.1.5.2012 and then deleted by Mah. Act No. XLII of 2017 dated the 29th May 2017. Prior to deletion this section read as under:

“31A. Collection and payment towards tax.-

1. The State Government may, by notification in *Official Gazette*, and subject to such conditions and restrictions as may be specified in the notification, require any person, local bodies or authorities or agencies under the Central Government or, as the case may be, the State Government,-

(a) who auction the rights for excavation of sand within their jurisdiction, to collect an amount at such rate as provided in sub-section (2), towards the liability of sales tax to be incurred on sale of sand by the auction purchaser, on auction of sand;

(b) who has temporary possession or control over the goods as may be notified, pending clearance of the said goods by the purchaser, to collect an amount at such rate as provided in sub-section (2), towards liability of sales tax to be incurred by the purchasing dealer on sale of such goods.

[(c) who awards quarrying lease or quarrying permit in respect of minor minerals to a dealer, within their jurisdiction to collect an amount at the time of such award or, as the case may be, auction, at such rate as provided in sub-section (2) towards the liability of sales tax to be incurred on sale of such minor minerals.]

2. The State Government may, by the like notification in the *Official Gazette*, specify such rate from time to time, at which such amount shall be collected by any person, local bodies or authorities under the Central Government or, as the case may be, the State Government, under clauses ³[(a), (b) and (c)] of sub-section (1).

3. The amount so collected and shall be paid into Government Treasury by the authorities referred to in clauses “[(a), (b) and (c)] of sub-section (1) in the manner prescribed. The amount so paid under this section shall be deemed to have been paid on behalf of the auction purchaser, dealer or person and it shall be adjusted towards their tax liability, if any.”

*This clause (c) was added by Mah. Act No. XXVII of 2014 dated the 26th June 2014.

**These words were substituted for the words “(a) and (b)” by Mah. Act No. XXVII of 2014 dated the 26th June 2014.

Payment of Tax, etc.

32. Payment of tax, etc.:-

(1) Tax shall be paid in the manner herein provided, and at such intervals as may be prescribed.

(2) A registered dealer furnishing returns as required 1[by section 20] shall pay into the Government treasury, in such manner and at such intervals as may be prescribed, the amount of tax due from him for the period covered by a return which he is required to file along with the amount of interest and any other sum payable by him.

(3) A registered dealer furnishing a revised return in accordance with 2[sub-section (4)] of section 20, when the revised return shows that a larger amount of tax than, the tax already paid, is payable, shall first pay into the Government treasury the extra amount of tax.

(4) (a) (i) The amount of tax due where the return or revised return has been furnished without full payment thereof shall be paid forthwith.

(ii) The amount of tax which it becomes necessary to pay on account of the reduction in set-off because of any contingency specified in the rules, shall be paid at the time prescribed for making payment of tax for the period in which such contingency occurs.

(b) (i) The amount of tax due as per any order passed under any provision of this Act, for any period, less any sum already paid in respect of the said period; and

(ii) the amount of interest or penalty or both, if any, levied under any provision of this Act; and

(iii) the sum, if any, forfeited and the amount of fine, if any, imposed under the Act or rules; and

(iv) the amount of tax, penalty and interest demanded in the context of excess availment of incentives or availment of incentives not due; and

(v) any other amount due under this Act,

shall be paid by the person or dealer or the person liable therefor into the Government treasury within thirty days from the date of service of the notice issued by the Commissioner in respect thereof:

Provided that, the Commissioner may, in respect of any particular dealer or person, and for reasons to be recorded in writing, allow him to pay the tax, penalty, interest or the sum forfeited, by installments but the grant of installment to pay tax shall be without prejudice to the other provisions of this Act including levy of penalty, or interest, or both.

(5) Any tax, penalty, interest, fine or sum forfeited, unpaid after the service of notice under sub-section (4), or any installment not duly paid or any amount due or payable under this Act, shall be recoverable as an arrears of land revenue.

(6) Notwithstanding anything contained in this Act or in any other law for the time being in force or in any contract, where any sum collected by a person by way of tax in contravention of section 60, is forfeited under section 29 and is recovered from him, such payment or recovery shall discharge him of the liability to refund the sum to the person from whom it was so collected. A refund of such sum or any part thereof can be claimed from the Commissioner by the person from whom it was realised by way of tax, provided such person has not resold the goods within a period of two years from the date of purchase and an application in writing in the prescribed form is made to the Commissioner, within two years from the date of the order of forfeiture. For this purpose, the Commissioner may send intimation in the prescribed form to such of the said purchasers whose names and addresses are available in the records of the person who has collected any sum in contravention of section 60. On receipt of such application, the Commissioner shall hold such inquiry as he deems fit, and if the applicant proves to the satisfaction of the Commissioner that the goods are not resold by him as aforesaid and if the Commissioner is satisfied that the claim is valid and admissible and that the amount so claimed as refund was actually paid in Government treasury or recovered and no set-off or refund in respect of that amount was granted, he shall refund the sum or any part thereof, which is found due to the person concerned.

(7) (i) There shall be established a Fund to be called “the Maharashtra Consumer Protection and Guidance Fund” (hereinafter, in this section, referred to as “the Fund”). From the amounts forfeited and recovered except for the amounts refunded as aforesaid to the purchasers and except for the amounts in respect of which a set-off or refund is granted, the remaining amount shall, after deducting the expenses of collection and recovery as determined by the State Government, under appropriation duly made by law in this behalf, be entered into, and transferred to, that Fund.

(ii) No sum from the Fund shall be paid or applied for any purpose other than the one specified in clause (iii).

(iii) The Fund shall be administered in the prescribed manner; and the amount in the Fund shall be utilised for meeting the expenses of any activities related to consumer protection and guidance as the State Government may direct, and for giving grant in the prescribed manner to any voluntary consumer organisation, society, association, body or institution engaged in providing for the better protection of the interests of the consumers and having such qualifications as may be prescribed.

(8) (a) Any dealer or person may apply to the Commissioner in the prescribed form for a clearance certificate and thereupon the Commissioner may, on the basis of the record, issue a certificate in the prescribed form within a period of fifteen days from the date of receipt of the application, in so far as he may, stating therein, the periods for which the returns have been filed or, as the case may be, have not been filed, assessments have been made, the status of pending proceedings, if any, and the amounts payable by the applicants, if any.

(b) The Commissioner may, every year on the basis of the record, issue to every registered dealer a certificate regarding the amounts payable by him, as on the 1st April of that year, stating therein the periods for which returns have not been filed, the period wise outstanding amounts of tax, penalty, interest and sum forfeited payable by the dealer including the amounts for which the due date of payment is not yet over, the amounts, the recovery of which has been stayed and the amounts under installment. The certificate shall in so far as it may, be issued immediately after the 1st of April every year.

(c) Nothing in the certificates issued under this sub-section shall be a bar on the Commissioner to initiate or continue any proceedings including recovery proceedings, if it is subsequently found that the certificates were issued on the basis of incomplete or erroneous information.

1 These words, brackets and figures were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

1. These words, brackets and figures were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Payment of tax or interest in certain cases.

[32A. Payment of tax or interest in certain cases.

1. After submission of the report of the audit as required under section 61, if it is noticed by the Commissioner that the Accountant has made a recommendation in respect of a sum payable or, as the case may be, the interest payable, if any, and the dealer has accepted the recommendations so made, either fully or partly, then the said dealer shall pay the same within thirty days from the date of service of the notice issued by the Commissioner in respect thereof.
2. The provisions with regard to the payment of interest as provided under sub-section (2) of section 30 shall, in the circumstances provided under this section, apply *mutatis mutandis* as they apply to the tax that has remained unpaid before the last date prescribed for payment of the said tax as disclosed in the return or, as the case may be, the revised return.

- Explanation.-For the purposes of this section and section 32, the Commissioner shall not recover ²[tax, which is rupees five hundred or less, per order or, as the case may be, per period and the interest payable thereon.]

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1. This section was inserted by Mah. Act No. VIII of 2013 dated 20th April 2013 w.e.f. 1.5.2013.
 2. These words were substituted for “dues which are rupees one hundred or less” by Mah. Act No. XXVI of 2018 dated the 31st March 2018 w.e.f. 1.4.2018.

Special mode of recovery

33. Special mode of recovery:-

(1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, on noticing that there is an outstanding liability of tax, interest or penalty against a dealer or person, or on whom a notice under sub-section (4) of section 32 has already been served, at any time, by notice in writing, require,-

(a) any person from whom any amount of money is due, or may become due, to the said dealer or person, or

(b) any person who holds or may subsequently hold money for or on account of such dealer or person,

to pay to the Commissioner, either forthwith upon the money becoming due or being held or within the time specified in the notice (but not before the money becomes due or is held as aforesaid), an amount equal to the amount due and outstanding from such dealer as aforesaid :

Provided that, no action under this sub-section shall be taken till the date prescribed for filing of appeal, if the dealer makes an application in the prescribed form to the Commissioner before the said date stating therein that he is proposing to file an appeal against the order in pursuance of which the said notice under sub-section (4) of section 32 has been served on him.

Explanation.- For the purposes of this section, the amount of money due to a dealer from, or money held for or on account of a dealer, by any person, shall be calculated after deducting therefrom such claims (if any) lawfully subsisting, as may have fallen due for payment by such dealer to such person.

(2) The Commissioner may, at any time, amend or revoke any such notice, or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer or a person, and the receipt of the Commissioner shall constitute a good and sufficient discharge of the liability of such person, to the extent of the amount referred to in the receipt.

(4) Any person discharging any liability to the dealer or person after receipt of the notice referred to in this section, shall be personally liable to the Commissioner to the extent of the liability discharged, or the extent of the liability of the dealer or a person for tax, penalty, interest and sum forfeited, whichever is less.

(5) Where a person to whom a notice under this section is sent proves to the satisfaction of the Commissioner that the sum demanded or any part thereof is not due to the dealer or a person, or that he does not hold any money for or on account of the dealer or a person, then, nothing contained in this

section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Commissioner.

(6) Subject to the provisions of sub-section (5), any amount of money which a person is liable to pay to the Commissioner, shall, under sub-section (1) read with sub-section (4), if it remains unpaid, be recoverable as if it is a sum demanded under section 32 and accordingly any notice served under this section shall be deemed for the purposes of this Act to be a notice served under section 32 and the unpaid amounts shall be recoverable as arrears of land revenue.

Special powers of Sales Tax Authorities for recovery of Tax as arrears of land revenue

34. Special powers of Sales Tax authorities for recovery of tax as arrears of land revenue :-

(1) For the purpose of effecting recovery of the amount of tax, penalty, interest, amount forfeited or any other sum, due and recoverable from any dealer or other person by or under the provisions of this Act, as arrears of land revenue,-

(i) the Commissioner of Sales Tax shall have and exercise all the powers and perform all the duties of the Commissioner under the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966);

(ii) the Additional Commissioner of Sales Tax shall have and exercise all the powers and perform all the duties of the Additional Commissioner under the said Code ;

(iii) the Joint Commissioner of Sales Tax shall have and exercise all the powers and perform all the duties of the Collector under the said Code;

(iv) the Senior Deputy Commissioner and the Deputy Commissioner of Sales Tax shall have and exercise all the powers (except the powers of confirmation of sale and arrest and confinement of a defaulter in a civil jail) and perform, all the duties of the Assistant or Deputy Collector under the said Code;

(v) the Assistant Commissioner and the Sales Tax Officer shall have and exercise all the powers (except the powers of confirmation of sale and arrest and confinement of a defaulter in a civil jail) and perform all the duties of the Tahsildar under the said Code.

(2) Every notice issued or order passed in exercise of the powers conferred by sub-section (1) shall, for the purposes of sections 24, 25, 26, 27 and 85 be deemed to be a notice issued or an order passed under the said Act.

Provisional attachment to protect revenue in certain cases

35. Provisional attachment to protect revenue in certain cases:-

(1) If during the course of inquiry in any proceedings including, proceedings related to recovery of any amount due, in respect of any person or dealer or during any inspection or search in relation to the business of any person or dealer under this Act, the Commissioner is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, then he may, notwithstanding anything contained in any law for the time being in force or any contract to the contrary, attach provisionally by order in writing any money due or which may become due to such person or dealer from any other person or any money which any other person holds or may subsequently hold for or on account of such person or dealer :

Provided that, the Commissioner shall specify in his order the amount of money to which the order applies :

Provided further that, the Commissioner may, by an order, revoke such order, if the dealer furnishes, to the Commissioner, a bank guarantee, in such time, for such period, as may be specified, in the said order.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of service of the order issued under sub-section (1) :

Provided that, the Commissioner may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he may think fit, so, however that the total period of extension shall not in any case exceed two years.

(3) The powers under this section shall be exercised by the Commissioner himself or the Additional Commissioner having jurisdiction over the entire State or, as the case may be, by any Joint Commissioner to whom the Commissioner has delegated such powers by a notification published in the Official Gazette.

(4) Where an order under sub-section (1) is served upon any person, provisionally attaching any money, then, such person shall be personally liable, so long as the attachment order is not revoked or has not ceased to have effect, to pay to the Commissioner, the amount of money so attached.

(5) If the said person or the dealer makes an application in the prescribed form to the Commissioner within fifteen days of the date of service of the order specified in sub-section (1), or as the case may be, within fifteen days of the date of service of the order extending the period under sub-section (2), then the Commissioner, after affording such person or dealer a reasonable opportunity of being heard, and, having regard to the circumstances of the case, may confirm, modify or cancel the order.

(6) An appeal against any order passed under sub-section (5) shall lie with the Tribunal and all other provisions of section 26 shall apply accordingly.

Continuation & validation of certain recovery proceedings

36. Continuation & validation of certain recovery proceedings -

(1) Where any notice of demand in respect of any tax, penalty, sum forfeited or interest (hereinafter in this section, referred to as Government dues) is served upon a dealer or the person liable therefore and any appeal or other proceedings is filed or taken in respect of such Government dues, then,

(a) where such Government dues are enhanced in such appeal or proceeding, the Commissioner shall serve upon the dealer or person, as the case may be, another notice only in respect of the amount by which such Government dues are enhanced and any recovery proceedings in relation to such Government dues as are covered by the notice or notices of demand served upon him before the disposal of such appeal or proceeding may, without the service of any fresh notice, be continued from the stage at which such proceedings stood immediately before such disposal;

(b) where such Government dues are reduced in such appeal or proceedings,

(i) it shall not be necessary for the Commissioner to serve upon the dealer or person a fresh notice;

(ii) the Commissioner shall give intimation of the fact of such reduction to the dealer or person;

(iii) any recovery proceedings initiated on the basis of the notice or notices of demand served upon him before the disposal of such appeal or proceeding may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal;

(c) no recovery proceedings in relation to such Government dues shall be invalid by reason only that no fresh notice of demand was served upon the dealer or person after the disposal of such appeal or proceeding or that such Government dues have been enhanced or reduced in such appeal or proceeding;

Provided that, where any Government dues are reduced in such appeal or proceeding and the dealer or person is entitled to any refund thereto, such refund shall be made in accordance with the provisions of this Act.

(2) For the removal of doubts, it is hereby declared that no fresh notice of demand shall be necessary in any case where the amount of Government dues is not varied as a result of any order passed in appeal or the proceeding under this Act.

(3) The provisions of this section shall apply in relation to every notice of demand served by the Commissioner upon a dealer or any other person liable for any Government dues.

Liability under this Act to be the first charge

37. Liability under this Act to be the first charge:-

1[(1)] Notwithstanding anything contained in any contract to the contrary, but subject to any provision regarding creation of first charge in any Central Act for the time being in force, any amount of tax, penalty, interest, sum forfeited, fine or any other sum, payable by a dealer or any other person under this Act, shall be the first charge on the property of the dealer or, as the case may be, person.

1[(2) The first charge as mentioned in sub-section (1) shall be deemed to have been created on the expiry of the period specified in sub-section (4) of section 32, for the payment of tax, penalty, interest, sum forfeited, fine or any other amount.]

-
1. This portion was renumbered as sub-section (1) and after so renumber the sub-section (2) added by Mah. Act No. XXXI of 2017 dated the 15th April 2017.

Transfer to defraud revenue void

38. Transfer to defraud revenue void:-

(1) Where, during the pendency of any proceedings under this Act or after the completion thereof, 1[the Commissioner has reason to believe that the liability of the dealer to pay tax or any other sum payable under this Act, is likely to be in excess of rupees twenty-five thousand and the dealer] creates a charge on, or parts with the possession by any mode of transfer whatsoever, including sale, mortgage, gift or exchange of any of the assets of his business valued at rupees ten thousand or more in favour of any other person with intent to defraud revenue, then, notwithstanding anything contained in any Act or contract to the contrary such charge or transfer shall be void as against any claim in respect of any tax or other sum payable by the dealer as a result of the completion of such proceedings or otherwise:

Provided that, such charge or transfer shall not be void if made for adequate consideration and without notice of the pendency of the proceeding or of the liability to pay any sum on completion of any proceedings.

(2) Where any person liable to pay tax or other sum payable under this Act has, during the pendency of any proceeding under this Act or after completion thereof, created a charge on or parted with possession by any mode of transfer including sale, mortgage, gift or exchange of any of his assets in favour of any other person and the Commissioner is of the opinion that such charge or transfer becomes void under sub-section (1), then the Commissioner shall issue a notice and hold enquiry and decide whether the charge or transfer became void under sub-section (1).

(3) If, after holding such enquiry the Commissioner is satisfied that the charge or transfer is void, he shall make an order declaring such charge or transfer to be void for the purposes of this Act.

Explanation.- In this section, “assets” includes land, building, machinery, plant, shares, securities and fixed deposits in banks, to the extent to which any of the assets aforesaid does not form part of the stock-in-trade of the business of the assessee.

1. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Rounding off the tax etc.

39. Rounding off tax, etc.:-

The amount of tax, penalty, interest, composition money, fine or any other sum payable, and the amount of set off or refund due under the provisions of this Act shall be rounded off to the nearest rupee and for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee, and if such part is less than fifty paise, it shall be ignored :

Provided that, nothing in this section shall apply for the purposes of collection by a dealer of any amount by way of tax under this Act.

Adjustment of any payment

40. Adjustment of any payment:-

Any payment made by a dealer or person in respect of any period towards 1[any amount due as per any order passed under the Act shall first be adjusted] except in so far as the recovery of the said amount or part thereof is stayed under sub-section (6) ²[or, as the case may be, sub-section (6C)] of section 26, against the interest payable by him on the date of payment in respect of the said period and thereafter towards the amounts due as a penalty, sum forfeited and fine. Any amount remaining unadjusted shall then be adjusted towards the tax payable in respect of that period.

1 These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

2. These words, brackets, figure and letter were inserted by Mah. Act No. XXXI of 2017, dated the 15th April 2017.

Exemption and Refund

41. Exemption and refund:-

(1) The State Government, if satisfied that it is necessary in the public interest to grant refund of any tax levied and collected from any class or classes of dealers or persons or, as the case may be, charged on the purchases or sales made by any class or classes of dealers or persons, it may, by notification in the *Official Gazette* and subject to such terms and conditions as may be specified in the notification, provide for grant of refund of such tax, for such period and to such class of dealers or

persons as specified in the said notification; on such tax payers applying to the Commissioner in the prescribed form for such refund :

Provided that, such notification may be issued so as to have retrospective effect so however that the effective date is not earlier than the appointed day.

1[(2) * * *]

1[(3) * * *]

2[(4) Subject to such conditions as it may impose, the State Government may, by notification in the *Official Gazette*, provide for exemption from the payment of full or part of the tax payable,—

- (a) on the sales of motor spirits §[*****] made by an oil company to another oil company;
- (b) on sales at retail outlets of motor spirits, other than aviation turbine fuel and aviation gasoline.

4[*****]

Explanation.—For the purposes of this sub-section, motor spirits §[*****] shall mean such products as the State Government may, notify from time to time, in the *Official Gazette*.]

6[(5) Subject to such conditions and restrictions as it may impose, the State Government may, by notification in the *Official Gazette*, provide for exemption from the payment of full or part of the taxes payable on any class or classes of ¶sales of liquor or, as the case may be, wine] by any class or classes of dealers.]

1 Sub-sections (2) & (3) were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

2 Sub-section (4) was substituted and shall be deemed to have been substituted w.e.f. 1st April, 2005 by Mah. Act No. XXXII of 2006, dt. 5.8.2006. Prior to substituted “Sub-section (4)” was read as under :-

“(4) Subject to such conditions as it may impose, the State Government may, by notification in the *Official Gazette*, provide for exemption from the payment of full or part of the tax payable on the purchases and sales of motor spirits and crude oil to any class or classes of dealers and for the purposes of this sub-section “motor spirit” means such products as the State Government may notify, from time to time, in the **Official Gazette*.”

3. These words “and petroleum products” were deleted by Mah. Act No. XLII of 2017 dated the 29th May 2017.

4. This clause was added by Mah. Act No. VIII of 2012 dated 25th April 2012 w.e.f.1.5.2012 and then deleted by Mah. Act No. XLII of 2017 dated the 29th May 2017. Prior to deletion this clause read as under:

“(c) on the sales of the furnishing cloth as specified in the notification issued under entry 101 of SCHEDULE C, at a point other than the last point of sales in the State.”

5. These words “and petroleum products” were deleted by Mah. Act No. XLII of 2017 dated the 29th May 2017.

6. Sub-section (5) was added by Mah. Act No. XV of 2011, dated 21st April 2011 w.e.f.1st May 2011.

7. These words were substituted for the word “sales of liquor” by Mah. Act No. VIII of 2013 dated the 20th April 2013 w.e.f. 1.5.2013.

Composition of Tax

42. Composition of tax:-

¹[(1) *****]

(2) The State Government may, by a notification in the Official Gazette, provide for a scheme of composition, subject to such conditions and restrictions as may be provided therein, of tax payable by dealers ²[*****3[***] selling Indian Made Foreign Liquor or Country Liquor at retail and holding licence in Form FL II appended to the Bombay Foreign Liquor Rules, 1953 or in Form CL III or in Form CL/FL/TOD/III appended to the Maharashtra Country Liquor Rules, 1973, framed under the Bombay Prohibition Act, 1949]

4[(3) *****]

4[(3A) *****]

⁵[(3B) The registered dealers, who had undertaken the construction of flats, dwellings or buildings or premises and transferred them in pursuance of an agreement along with the land or interest underlying the land and where,—

(a) such agreement is registered on or before the 31st May 2017; and

(b) the works contract activity in respect of aforesaid agreement is continued on or after the date notified for the purpose of the Maharashtra Goods and Services Tax Act or, as the case may be, payment is received, then notwithstanding anything contained in sub-section (3A) or, as the case may be, in the Notification, Finance Department, No. VAT/2015/CR-65/Taxation.-1 dated the 9th July 2010, but subject to the conditions stated in column (3) at Serial Number (3) to (5) and (7) of the aforesaid notification, the said dealer shall,—

(i) determine the composition amount in lieu of tax payable on the transfer of the goods (whether as goods or in some other form), in execution of the works contract under the Act, at one per cent. of the payment received in respect of said flats, dwellings or buildings or premises till the date immediately preceding the date on which the Maharashtra Goods and Services Tax Act comes into force, and deduct the amount so determined from the composition amount paid as per the aforesaid notification, and

(ii) take the credit into the electronic credit ledger prescribed under the Maharashtra Goods and Services Tax Act of the balance unutilized amount remained on the date on which the Maharashtra Goods and Services Tax Act comes into force.]

⁶[(4) *****]

1. This section was deleted by Mah. Act No. XLII of 2017, dated the 29th May 2017. Prior to deletion this section read as under:

“(1) (a) The State Government may, by a notification in the *Official Gazette*, provide for a scheme of composition, subject to such conditions and restrictions as may be provided therein, of tax payable by the dealers who are engaged in the business, as prescribed, of reselling at retail, any goods or merchandise and different types of schemes may be notified for different classes of retailers.

(b) For the purpose of *[this sub-section], a dealer shall be considered to be engaged in the business of selling at retail if 9/10th of his turnover of sales consists of sales made to persons who are not dealers and if any question arises as to whether any particular dealer is a retailer, **[then the question shall be referred] to the Joint Commissioner, who shall after hearing the dealer, if necessary, decide the question. The order made by the Joint Commissioner shall be final.

(c) Nothing in this sub-section shall apply to a dealer who is a manufacturer or who is an importer or who purchases any goods from a registered dealer whose sales of the said goods are not liable to tax by virtue of the provisions contained in ***[sub-section (1) of section 8] or who sells at retail liquor including liquor imported from out of India, Indian Made Foreign Liquor or Country Liquor ****[except as provided in sub-section (2)]”

* These words were substituted for the words “this section” by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006.

** These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

*** These words and figures were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

**** These words were inserted by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006.

2. These words were deleted by Mah. Act No. XLII of 2017, dated the 29th May 2017. Prior to deletion these words read as under:

“who are running any eating house, restaurant, hotel, refreshment room or boarding establishment *[*] and the tax payable by dealers who are caterers and serve food and non-alcoholic drinks **[or tax payable by dealers running bakeries or dealers of second hand motor vehicles whose principal business is buying or selling motor vehicles or vendors”

* These words were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

** These words were inserted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

3. These words were added by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006.

4. These sub-sections were deleted by Mah. Act No. XLII of 2017, dated the 29th May 2017. Prior to deletion these sub-sections read as under:

*[(3) Where a dealer is liable to pay tax on the sales effected by way of transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, he may subject to such restrictions and conditions as may be prescribed, in lieu of the amount of tax payable by him under this Act, whether in respect of the entire turnover of sales effected by way

of works contract or in respect of any portion of the turnover corresponding to individual works contract, pay lump-sum by way of composition,—

(a) equal to five per cent. of the total contract value of the works contract in the case of a construction contract, and

(b) eight per cent. of the total contract value of the works contract in any other case, after deducting from the total contract value of the works contract, the amount payable towards sub-contract involving goods to a registered sub-contractor.

Explanation.—For the purposes of this sub-section,—

(i) “construction contract ” shall mean construction contract as may be notified by the State Government in the Official Gazette, from time to time, and

(ii) “the amount payable towards sub-contract involving goods ” means the aggregate value of the goods on which tax is paid and the quantum of said tax paid by the sub- contractor or the subcontract value on which tax by way of composition is paid by the sub-contractor, as the case may be.

****[(3A) The State Government may, by notification published in the *Official Gazette*,—**

(a) Provide a scheme of composition for the registered dealers who undertake the construction of flats, dwellings or buildings or premises and transfer them in pursuance of an agreement along with the land or interest underlying the land;

(b) prescribe the rate of tax by way of composition, in lieu of the amount of tax payable on the transfer of goods (whether as goods or in some other form), in the execution of such works contracts by such registered dealer under this Act.”]

*Sub-section (3) was substituted by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006. Prior to substituted the “Sub-section (3)” was read as under :-

“(3) (a) Where a dealer is liable to pay tax on sales effected by way of transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, he may subject to such restrictions and conditions as may be prescribed, in lieu of the amount of tax payable by him under this Act, whether in respect of the entire turnover of sales effected by way of works contract or in respect of any portion of the turnover corresponding to individual works contract, pay lump sum tax by way of composition equal to eight per cent. of the total contract value of the works contract •[after deducting from the total contract value of the works contract the amount payable towards sub-contract to sub-contractor]”

• This “Portion” was added by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

** Sub-section (3A) was inserted and shall be deemed to have been inserted w.e.f. 1 st April, 2010 by Mah. Act No. XII of 2010 dt.29.04.2010.

5. This sub-section was inserted by Mah. Act No. XLII of 2017, dated the 29th May 2017.

6. This sub-section was deleted by Mah Act No. XLII of 2017, dated the 29th May 2017. Prior to deletion this sub-section read as under:

“(4) Where a dealer is liable to pay tax *[in respect of any period on or after the appointed day] on sales effected by way of the transfer of the right to use mandap or tarpaulin (whether or not for a specified period), then he may, subject to such conditions and restrictions, as may be prescribed, pay in lieu of the amount of tax payable by him a sum equal to one and half per cent. of the turnover of sales effected by him.

Explanation.—For the purposes of this sub-section, the transfer of the right to use mandap includes the transfer of the right to use mandap, pandal, shamiana or the decoration of such mandap, pandal or shamiana and the transfer of the right to use furniture, fixtures, lights and light fittings, floor coverings, utensils and other articles ordinarily used alongwith a mandap, pandal or shamiana.”

* These words were inserted by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007 as per Notification No. VAT.1507/CR- 57 /Taxation-1, dt. 10.8.2007.

Applicability of all the provisions of this Act or any earlier law to person liable to pay tax under this act

43. Applicability of all the provisions of this Act or any earlier law to person liable to pay tax under this Act :-

Where in respect of any tax (including any penalty, interest and amount forfeited) due from a dealer or person under this Act or under any earlier law, any other person is liable for the payment thereof under section 44, all the relevant provisions of this Act or, as the case may be, of the earlier law, shall in respect of such liability apply to such person also, as if he were the dealer himself.

Special Provision regarding liability to pay Tax in certain cases

44. Special provision regarding liability to pay tax in certain cases:-

(1) Where a dealer, liable to pay tax under this Act, dies then,-

(a) if the business in which the dealer was engaged is continued after his death by his legal representative or any other person, such legal representative or other person shall be liable to pay the tax including any penalty, sum forfeited and interest due from such dealer under this Act or under any earlier law, in the like manner and to the same extent as the deceased dealer, and

(b) if the business in which the dealer was engaged is discontinued whether before or after his death, his legal representative shall be liable to pay out of the estate of the deceased, in the like manner and to the same extent as the deceased dealer would have been liable to pay if he had not died, the tax including any penalty, sum forfeited and interest due from such dealer under this Act, or under any earlier law, whether such tax including any penalty, sum forfeited and interest has been assessed before his death but has remained unpaid, or is assessed after his death.

(2) Where a dealer, liable to pay tax under this Act, is a Hindu Undivided Family and there is a partial partition or partition of the joint family property amongst the various members or group of

members, then each member or group of members shall be jointly and severally liable to pay the tax including any penalty, sum forfeited and interest due from the dealer under this Act or under any earlier law, up to the time of the partial partition or partition, whether such tax including any penalty, sum forfeited and interest has been assessed before the partial partition or partition but has remained unpaid, or is assessed after such event.

(3) Where a dealer, liable to pay tax under this Act, is a firm, and the, firm is dissolved, then every person who was a partner shall be jointly and severally liable to pay to the extent to which he is liable under section 46, the tax, including any penalty, sum forfeited and interest due from the firm under this Act or under any earlier law, up to the time of dissolution, whether such tax including any penalty, sum forfeited and interest has been assessed before such dissolution but has remained unpaid, or is assessed after dissolution.

(4) Where a dealer, liable to pay tax under this Act, transfers or otherwise disposes of his business in whole or in part, or effects any change in the ownership thereof, in consequence of which he is succeeded in the business or part thereof by any other person, the dealer and the person succeeding shall jointly and severally be liable to pay the tax including any penalty, sum forfeited and interest due from the dealer under this Act or under any earlier law, up to the time of such transfer, disposal or change, whether such tax including any penalty, sum forfeited and interest has been assessed before such transfer, disposal or change but has remained unpaid, or is assessed thereafter.

¹ [(4A) For the purposes of this Act, in case of amalgamation, merger or, as the case may be, demerger, the transfer of business shall be deemed to have taken effect either from,

1. the date of the order of the High Court, the Tribunal or the Central Government, or
2. the date on which the Registrar of Companies notifies the amalgamation, merger or as the case may be, demerger,

as opted by the company.]

(5) Where the dealer liable to pay tax under this Act, -

- (a) is the guardian of a ward on whose behalf the business is carried on by the guardian, or
- (b) are trustees who carry on the business under a trust for a beneficiary, then,

if the guardianship or trust is terminated, the ward or, as the case may be, the beneficiary shall be liable to pay the tax including any penalty, sum forfeited and interest due from the dealer up to the time of the termination of the guardianship or trust, whether such tax including any penalty, sum forfeited and interest has been assessed before the termination of the guardianship or trust, but has remained unpaid, or is assessed thereafter.

²[(6) Subject to the provisions of the Companies Act, 2013, where any tax or other amount recoverable under this Act from a private company, whether existing or wound up or under liquidation, for any period, cannot be recovered, for any reason whatsoever, then, every person who was a director of the private company during such period shall be jointly and severally liable for the payment of such tax or other amount unless, he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the said company.]

.....

1. This sub-section was inserted by Mah. Act No. XVII of 2015 dated 18.4.2015 w.e.f. 1.4.2015.
2. This sub-section was inserted by Mah. Act No. XXXI of 2017 dated the 15th April 2017.

Certain agents liable to Tax for sales on behalf of Principal

45. Certain agents liable to tax for sales on behalf of principal:-

(1) Where any person specified in sub-clause (a), (b) or (c) of clause (8) of section 2, ¹[sells or purchases any taxable goods] on behalf of his principal, the person as well as the principal shall both be jointly and severally liable to pay the taxes on the ²[turnover of such sales or purchases].

(2) If the principal, on whose behalf the said person has ³[sold ^{3a}[*****] any] goods, shows to the satisfaction of the Commissioner that, the tax has been paid by the said person on such goods under sub-section (1), the principal shall not be liable to pay the tax again in respect of the same transaction and where the person shows to the satisfaction of the Commissioner that the principal has paid such tax, the person shall not be liable to pay the tax again in respect of the same transaction.

(3) Where an agent of a non-resident dealer, ⁴[sells ^{4a}[*****]] any goods on behalf of the non-resident dealer in the State, then the non-resident dealer and the agent residing in the State, shall be jointly and severally liable to pay tax on the ²[turnover of such sales ^{3a}[*****]] :

Provided that, if the non-resident dealer shows to the satisfaction of the Commissioner that the tax payable in respect of ⁵[such sale ^{4a}[*****]] has been paid by the agent residing in the State, then the non-resident dealer shall not be liable to pay tax again in respect of the same transaction and where the agent shows to the satisfaction of the Commissioner that the non-resident dealer has paid such tax, the agent shall not be liable to pay the tax again in respect of the same transaction.

(4) Where any sale has been effected by way of transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract and the contractor has executed the works contract awarded to him, through a sub-contractor, directly or otherwise, then notwithstanding anything contained in any law or agreement to the contrary, the relationship between the contractor and the person who has actually executed the works contract or part of it as a sub-contractor shall be deemed to be that of the principal and agent and accordingly,-

(a) where such principal assigns the whole or part of the execution of the works contract to different such agents resulting into the distribution of the turnover of the said sales amongst the principal and the agents or wholly amongst the agents whereby the principal escapes the liability to pay tax on the whole or part of the turnover of sales, then, having regard to the total turnover of sales, including the total turnover of sales in respect of execution of such contract, of the principal in the year of assessment being such that the principal would have been liable to pay tax under this Act if such works contract had been executed by himself alone the liability to pay tax on such total turnover of sales shall be that of the principal;

(b) where such agent executes such works contract on behalf of the principal and each or either of them is liable to pay tax, then notwithstanding anything contained in any other law or any contract to the contrary, the principal and the agent shall be jointly and severally liable to pay tax in respect of the transfer of property in goods involved in the execution of such works contract;

(c) if the principal shows to the satisfaction of the Commissioner that tax has actually been paid by the agent on the turnover of sales, the principal shall not be liable to pay tax again in respect of the same turnover of sales on which the agent has paid tax;

(d) if the agent shows to the satisfaction of the Commissioner that the tax has been actually paid by his principal on the turnover of sales on which he is liable to pay tax under this Act, then the agent shall not be liable to pay tax again on the same turnover of sales on which the principal has paid tax;

(e) no deduction from payment of tax under the preceding clauses shall be given to the principal or to the agent, unless a duly signed certificate in the prescribed form is produced;

(f) a contract or assigning execution of a works contract (either in whole or in part) to a sub-contractor registered under this Act, may deduct from his total contract value or, as the case may be, the turnover of sales, the value or the turnover of sales in respect of works contract executed through the said sub-contractor provided a declaration in the prescribed form signed by such sub-contractor is produced;

(g) a sub-contractor who has been assigned execution of works contract (either in whole or in part) by a contractor may deduct from his total contract value or, as the case may be, the turnover of sales, the value or the turnover of sales in respect of such works contract executed by him provided a declaration in the prescribed form signed by such contractor is produced.

1. These words were substituted by Mah. Act No. VIII of 2012 25.4.2012 w.e.f.1.5.2012 Prior to substitution these words were read as: "sells *~~any~~ taxable goods"

* these words were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

2. These words were substituted by Mah. Act No. VIII of 2012 25.4.2012 w.e.f.1.5.2012 Prior to substitution these words were read as: "turnover of such sales*~~any~~"

* these words were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

3. These words were substituted by Mah. Act No. VIII of 2012 25.4.2012 w.e.f.1.5.2012 Prior to substitution these words were read as: "sold*~~any~~"

* these words were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

3a. The words "or purchased" deleted by Mah. Act No. XLII of 2017, dated the 29th May 2017.

4. These words were substituted by Mah. Act No. VIII of 2012 25.4.2012 w.e.f.1.5.2012 Prior to substitution these words were read as: "sells*~~any~~ "

* these words were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

4a. The words "or purchases" deleted by Mah. Act No. XLII of 2017, dated the 29th May 2017.

5. These words were substituted by Mah. Act No. VIII of 2012 25.4.2012 w.e.f.1.5.2012 Prior to substitution these words were read as: "such sale*^{***} any"

* these words were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Liability of Firms and Partners

46. Liability of firms and partners :-

(1) Notwithstanding any contract to the contrary, where any firm is liable to pay tax under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment.

(2) Any notice or order under this Act may be served on any person who was a partner during the relevant time, whether or not the firm has been dissolved and all the provisions of this Act shall apply accordingly.

(3) Where any partner retires from the firm, he shall be liable to pay the tax, penalty, sum forfeited and interest, if any, remaining unpaid at the time of his retirement and any such amount due up to the date of retirement, though un-assessed at that date and where at the time of death of the said partner, the legal representative is not a partner in the said firm, he shall be liable to pay such amounts only out of the estate of the deceased, in the like manner and to the same extent as the deceased partner would have been liable to pay if he had not died.

Amalgamation or Demerger of Companies

47. Amalgamation ¹[or demerger] of Companies :-

(1) When two or more companies are to be amalgamated by the order of ^{1a}[Court, Tribunal] or of the Central Government ²[passed after the appointed day and is to take effect] from a date earlier to the date of the order and any two or more of such companies have sold or purchased any goods to or from each other in the period commencing on the date from which the order is to take effect and ^{2a}[ending on the date, as opted by the company, to be the date of the order or the date on which the Registrar of Companies notifies the amalgamation,] then such transactions of sale and purchase shall be included in the turnovers of sale or purchase of the respective companies and shall be assessed to tax accordingly.

(2) Notwithstanding anything contained in the said order, for all of the purposes of this Act, the said two or more companies shall be treated as distinct companies for all the periods upto ^{2b}[such date, as opted by the company under sub-section (4A) of section 44] and the registration certificates of the said companies shall be cancelled, where necessary, with effect from ^{2b}[such date, as opted by the company under sub-section (4A) of section 44].

3[(2A) (a) When any company is to be demerged by the order of the ^{1a}[Court, Tribunal] or of the Central Government passed after the appointed day and is to take effect from a date earlier to the date of the order, then for all of the purposes of this Act, it shall be presumed that the two or more companies brought into existence by the operation of the said order have not sold or purchased any goods to each other from the date of effect of the ⁴[order to the date, as opted by the company, to be the date of the order or the date on which the Registrar of Companies notifies the demerger].

(b) Notwithstanding anything contained in the said order, for the purposes of this Act, the said two or more companies shall be treated as a single company for all the periods upto the date of the said order and the registration certificate of the company to be demerged shall be cancelled with effect from the date of the said order and the said two or more companies shall, subject to rules, be granted registration certificates from ^{2b}[such date, as opted by the company under sub-section (4A) of section 44];]

⁵[(2B) Notwithstanding anything contained in this section, if the order of the Court, Tribunal or the Central Government is passed on or after the appointed date of the Maharashtra Goods and Services Tax Act, then the provisions of the said Act, in this regard, shall be applicable.]

(3) Words and expression used in this section but not defined shall have the respective meanings assigned to them in the Companies Act, 1956 (I of 1956).

1. These words were inserted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

1a. These words were substituted for the word "court" by Mah. Act No. XVII of 2015 dated 18.4.2015 w.e.f. 1.4.2015.

2. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

2a. The words, "ending on the date of the order," were substituted by Mah. Act No. XVII of 2015 dated 18.4.2015 w.e.f. 1.4.2015.

2b. The words, "the date of the said order" were substituted by Mah. Act No. XVII of 2015 dated 18.4.2015 w.e.f. 1.4.2015.

3. Sub-section (2A) was inserted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

4. The words "order to the date of the order" were substituted by Mah. Act No. XVII of 2015 dated 18.4.2015 w.e.f. 1.4.2015.

5. This sub-section was inserted by Mah. Act No. XLII of 2017, dated the 29th May 2017.

Set Off, Refund etc.

CHAPTER VIII

SET-OFF, REFUNDS, ETC.

48. Set-off, refund, etc.:-

(1) The State Government may, by rules, provide that,-

(a) in such circumstances and subject to such conditions and restrictions as may be specified in the rules, a set-off or refund of the whole or any part of the tax,-

¹[*****]

(ii) paid in respect of any earlier sale ²[****] of goods under this Act be granted to the purchasing dealer; or

(iii) paid under the Maharashtra Tax on Entry of Motor Vehicles into the Local Areas Act, 1987 (Mah. XLII of 1987), be granted to the dealer purchasing or importing motor vehicles;

(iv) paid under the Maharashtra Tax on Entry of Goods into the Local Areas Act, 2002, be granted to the dealer;

(b) for the purpose of the levy of tax under any of the provisions of this Act, the sale price ³[***] may in the case of any class of sales ³[***] be reduced to such extent, and in such manner, as may be specified in the rules.

(2) No set-off or refund as provided by any rules made under this Act shall be granted to any dealer in respect of any purchase made from a registered dealer after the appointed day, unless the claimant dealer produces a tax invoice, containing a certificate that the registration certificate of the selling dealer was in force on the date of sale by him and the due tax, if any, payable on the sale has been paid or shall be paid and unless such certificate is signed by the selling dealer or a person duly authorised by him.

⁴[*****]

(4) Where, under any notification issued under this Act or as the case may be, any earlier law, any sale or purchase of goods has been exempted from the payment of whole of sales tax or purchase tax, then, for the purposes of sub-section (3), the rate of tax applicable shall be nil; and where it is exempted from payment of any part of sales tax (or purchase tax), the rate of tax applicable shall be the rate at which the payment of tax is to be made by virtue of such exemption.

(5) For the removal of doubt it is hereby declared that, in no case the amount of set-off or refund on any purchase of goods shall exceed the amount of tax in respect of the same goods, actually paid, if any, under this Act or any earlier law, into the Government treasury except to the extent where purchase tax is payable by the claimant dealer on the purchase of the said goods effected by him :

Provided that, where tax levied or leviable under this Act or any earlier law is deferred or is deferrable under any Package Scheme of Incentives implemented by the State Government, then the tax shall be deemed to have been received in the Government Treasury for the purposes of this sub-section.

(6) Where at any time after the appointed day, a dealer becomes entitled to a refund whether under any earlier law or under this Act, then such refund shall first be applied against the amount payable, if any, under any earlier law or this Act ¹[***] and the balance amount, if any, shall be refunded to the dealer.

1. These clauses were deleted by Mah. Act No. XLII of 2017 dated the 29th May 2017. Prior to deletion these clauses read as under:

“(i) paid under any earlier law in respect of any earlier sales or purchases of goods treated as capital assets on the day immediately preceding the appointed day or of goods which are held in stock on the appointed day by a person who is a dealer liable to pay tax under this Act, be granted to such dealer; or

(iii) paid under the Maharashtra Tax on Entry of Motor Vehicles into the Local Areas Act, 1987 (Mah. XLII of 1987), be granted to the dealer purchasing or importing motor vehicles;

(iii) paid under the Maharashtra Tax on Entry of Goods into the Local Areas Act, 2002, be granted to the dealer;”

2. These words “or purchase” was deleted by Mah. Act No. XLII of 2017 dated the 29th May 2017.

3. These words were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

4. This sub-section was deleted by Mah. Act No. XLII of 2017 dated the 29th May 2017. Prior to deletion this sub-section (3) read as under:

“(3) Subject to the provisions contained in sub-section (4), where no tax has been charged separately under any earlier law, the rate of tax applicable for the purposes of calculating the amounts of set-off, or refund in respect of any earlier sale or purchase of goods, or for the purposes of reduction of sale or purchase price for levy of tax, shall be the rate set-out against the goods in the relevant Schedule *[under any earlier law].”

* These words were inserted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

1[*****]

Refund of tax on declared goods sold in the course of inter-State trade or commerce

1[49. *****]

1. This section was deleted by Mah. Act No. XLII of 2017, dated the 29th May 2017. Prior to deletion this section read as under:

“49. Refund of tax on declared goods sold in the course of inter-State trade or commerce:-

Where any declared goods are sold by a dealer in the course of inter-State trade or commerce and tax has been paid by him under the Central Sales Tax Act, 1956 (74 of 1956), in respect of the sale of such goods in the course of inter-State trade or commerce, and such dealer shows to the satisfaction of the Commissioner that tax under this Act, or any earlier law has been paid in respect of an earlier sale or purchase of such goods made in the State after the 1st day of October 1958, then an amount equal to the tax so paid shall be reimbursed to such dealer making such sale in the course of inter-State trade or commerce, in such manner and subject to such conditions as may be prescribed.”

Refund of excess payment

50. Refund of excess payment:-

(1) Subject to the other provisions of this Act and the rules made thereunder, 1[the Commissioner shall, by order refund] to a person the amount of 3[tax, 2[penalty, interest, security deposit deposited under section 16] and fee except when the fee is paid by way of court-fee stamp,] if any, paid by such person in excess of the amount due from him. The refund may be either by deduction of such excess from the amount of tax, penalty, amount forfeited and interest due, if any, in respect of any other period or in any other case, by cash payment:

Provided that, the Commissioner shall first apply such excess towards the recovery of any amount due in respect of which a notice under sub-section (4) of section 32 has been issued, or, as the case may be, any amount which is due as per any return or revised return but not paid and shall then refund the balance, if any.

4[(2) If a registered dealer has filed any returns, fresh returns or revised returns in respect of any period contained in any year and any amount is refundable to the said dealer according to the return, fresh return or revised return, then subject to rules, the dealer may adjust such refund against the amount due as per any return, fresh return or revised return for any 5[* * *] period contained in the said year, filed under this Act or the Central Sales Tax Act, 1956 or the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002.]

⁶[Provided that, for the period commencing on or after the 1st April 2012, a dealer whose refund claim in a year is rupees five lakh or less, may, carry forward such refund to the return or revised return for immediate succeeding year to which such refund relates.]

1. These words were substituted for the words “the Commissioner shall refund” by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006.

2. These words were substituted for the words “penalty and interest,” and shall be deemed to have been substituted w.e.f. 1-4-2005 by Mah. Act No. XXV of 2007, dt. 6.8.2007.

3. These words were substituted for the words “ tax ,penalty, interest” by Mah. Act No.XV of 2011 dt.21st April 2011 w.e.f.1st May 2011.

4. Sub-section (2) was substituted by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006.

(2) Where any refund is due to any dealer according to the return or revised return furnished by him for any period, then subject to the other provisions of this Act including the provisions regarding provisional refunds such refund may provisionally be adjusted by him against the tax due and payable as per the returns or revised return furnished under section 20 for any subsequent period :

Provided that, the amount of tax or penalty, interest or sum forfeited or all of them due from, and payable by, the dealer on the date of such adjustment shall first be deducted from such refund before making the adjustment.

5. The word “subsequent” was deleted by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007 as per Notification No. VAT.1507/CR-57/Taxation-1, dt. 10.8.2007.

6. This proviso was added by Mah. Act No. VIII of 2013 dated the 20th April 2013 w.e.f. 1.5.2013

Grant of refunds

1[51. Grant of refunds:-

(1) Where a registered dealer has in any return, fresh return or revised return shown any amount to be refundable and has not undertaken to adjust such amount against the amount due as per any 2[***] return in accordance with section 50, the Commissioner shall, on an application made by the dealer and subject to rules, and the other provisions of this Act, grant refund of such amount to the said dealer.

3[Provided that, the Commissioner may, subject to such conditions and restrictions as may be prescribed, reduce the refund and grant only part of the refund claimed in such application].

(2) 4[(a) The registered dealer may, after the end of the year to which the return, fresh return or revised return relates, make an application in the prescribed form for grant of refund of the amount claimed refundable as aforesaid. The Commissioner may, 5[on receipt of the application] call for such additional information from the dealer, as he may think necessary. The refunds relating to all the periods contained in one year may be granted by a single order.]

6[(b) *****]

Provided that, the said dealer may apply in the prescribed form to the Commissioner at any time after the end of the year to which the refund relates for grant of the said refund and the Commissioner may subject to rules including rules relating to bank guarantees grant such refund:

7[* * *]

(3) (a) Notwithstanding anything contained in sub-section (2), if a dealer is,—

(i) an exporter within the meaning of sub-section (1) or sub-section (3) of section 5 of the Central Sales Tax Act, 1956; or

(ii) a unit specified in the Explanation to sub-section (3) of section 8 ; or

(iii) a holder of a Certificate of Entitlement under any Package Scheme of Incentives except the New Package Scheme of Incentives for 8[Tourism Projects 1999; or], ^{9a}[a holder of an Identification Certificate issued to a Mega Unit covered under the ^{9b}[Package Scheme of Incentives-2001, Package Scheme of Incentives-2007 or, as the case may be, Package Scheme of Incentives-2013] ; or]

9[10[(iv) *****]

(v) the Canteen Stores Department or the Indian Naval Canteen ^{10a}[services; or]]

^{10b}[(vi) selling the goods in the course of inter-State trade or commerce and turnover of the said inter-State sales in immediate previous year exceeds fifty per cent. of his total turnover of sales for that year.]

then he may apply in the prescribed form to the Commissioner after filing the return for grant of refund relating to the period covered by a return, fresh return or revised return.

11[**Explanation.**— For the purposes of sub-clause (i), the expression “exporter” shall means a registered dealer whose turnover of exports during such period as may be prescribed, is not less than such percentage of the total turnover of his sales as may be prescribed in this behalf.]

12[(b) The Commissioner, on receipt of the said application, may require the dealer to furnish such bank guarantee for such amounts from such banks, for such periods and to such authorities as may be prescribed.]

13[14[(4) Save as otherwise provided in this section, the Commissioner shall grant the refund under this section within eighteen months from the end of the month containing the date of the receipt of the application for refund:

Provided that, where a dealer has filed an application for refund under this section on or before the 31st March 2011, then, notwithstanding anything contained in sub-section (4) as it

existed prior to the date of commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2011, the commissioner shall,-

1. in respect of the periods ending on or before the 31st March 2010, grant the refund to such dealer on or before the 30th September 2011, and
2. in respect of the periods beginning with the 1st April 2010 and ending on the 31st March 2011, grant the refund to such dealer on or before the 30th June 2012.]

(5) Notwithstanding anything contained in this section, if the dealer has furnished a bank guarantee for such amount, from such bank, for such period and to such authority as may be prescribed, the Commissioner shall grant the refund due under sub-section (2) or (3), within one month of the furnishing of the bank guarantee, irrespective of whether the additional information has been furnished or not.]

(6) (a) If before the grant of refund under this section, a notice for assessment covering the period to which the return relates is issued or if any proceedings under sub-section (3) or sub-section (4) of section 64 are initiated in respect of the period to which the return relates, then,—

(i) if the dealer has not furnished a bank guarantee then no refund under this section shall be granted; and

(ii) if the dealer has furnished a bank guarantee then an amount equal to the guaranteed amount shall be refunded.

(b) If it is found as a result of any order passed under this Act that the refund granted under this section is in excess of the refund, if any, determined as per the said order, then the excess amount shall be recovered as if it is an amount of tax due from the dealer and the dealer shall be liable to pay simple interest at the prescribed rate per month or part thereof from the date of the grant of refund.

(7) No refund under this section shall be granted unless an application as provided is made and no application under this section shall be entertained unless it is made within 15[eighteen months] from the end of the year containing the period to which the return relates.]

1. Section 51 was substituted by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006. Prior to substituted the “Section 51” was read as under :-

“51. Provisional refunds :- (1) If a registered dealer has filed any returns or revised returns as required by or under this Act, and such returns show any amount to be refundable to the said dealer, then the said dealer may apply in the prescribed form to the Commissioner for grant of a provisional refund pending assessment.

*(2) The Commissioner may, require the said dealer to furnish such bank guarantee for such amounts and for such period as may be prescribed. On receipt of such guarantee, the Commissioner shall, subject to rules, grant the dealer a provisional refund of the amount claimed refundable as aforesaid within six months of the end of the year containing the period to which the return or revised return relates and the refund relating to all the periods contained in one year may be granted by a single order:

Provided that, the refund relating to any period covered by a return shall be granted within three months of the end of the period to which the return relates, if the dealer,—

(a) is an exporter within the meaning of sub-section (1) of section 5 of the Central Sales Tax Act, 1956 (74 of 1956);

(b) is a unit specified in the Explanation to sub-section (3) of section 8;

(c) holds a certificate of Entitlement under any Package Scheme of Incentives;

(d) is a person or dealer specified to be eligible for refund in any notification issued under sub-section (1) of section 41:

Provided further that, where the dealer has obtained a registration certificate as provided under section 16 except on account of change of place of business to different local area, then the provisional refund in respect of the year containing the date of effect of the certificate of registration shall be granted within six months of the end of the year succeeding the said year.

*(3) If it is found that the provisional refund granted is in excess of the refund found due, then the excess shall be recovered as if it is a tax due from the dealer and on such excess, interest shall be leviable at the prescribed rate per month or part thereof from the date of grant of the provisional refund.

*(4) If the dealer is required to furnish any information before the grant of provisional refund and the required information is not furnished in the prescribed time, then, for the purposes of this Act, the period in which the refund is to be granted shall commence from the first date of the month following the month in which the required information is furnished.

*(5) Provisional refund shall not be granted under this section to any dealer if before the grant of refund, a notice for assessment covering the period to which the refund relates is issued or proceedings under sub-section (3) or (4) of section 64 in respect of the period to which the refund relates are initiated.]

* Sub-sections (2), (3), (4) & (5) were substituted for “sub-sections (2) & (3)” by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

2. The word “subsequent” was deleted by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007 as per Notification No. VAT.1507/CR-57/Taxation-1, dt. 10.8.2007.

3. This “Proviso” was added by Mah. Act No. XII of 2010 dt. 29.04.2010 w.e.f. 1st May, 2010

4. The “clause (a)” was substituted by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007 as per Notification No. VAT.1507/CR-57/Taxation-1, dt. 10.8.2007. Prior to substituted the “clause (a)” was read as under :-

“(a) The Commissioner shall, grant the dealer refund of the amount claimed refundable as aforesaid within six months of the end of the year to which the return, fresh return or revised return relates and the refund relating to all the periods contained in one year may be granted by a single order :

Provided that, where the return, fresh return or, as the case may be, revised return is filed after the date prescribed for filing the last return of the said year, then the period of six months shall be counted from the date of filing of the said return, fresh return or revised return.

5. These words were substituted for the words “within one month of the receipt of the application” by Mah. Act No. XV of 2011 dt. 21st April 2011 w.e.f. 1st May 2011.

6. clause (b) shall be deleted by Mah. Act No. XV of 2011 dt. 21st April 2011 w.e.f. 1st May 2011. Earlier this clause read as: “(b) Notwithstanding anything contained in clause (a), where a dealer has obtained a registration certificate as provided under this Act, then the refund in respect of the returns, fresh returns or revised returns in respect of the year containing the date of effect of registration shall be granted within six months of the end of the year succeeding the said year:”

7. The “Second Proviso” was deleted by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007 as per Notification No. VAT.1507/CR-57/Taxation-1, dt. 10.8.2007. s.16(2)(b). Prior to deleted the “Second Proviso” was read as under :-

“Provided further that, where the return, fresh return or, as the case may be, revised return is filed at any time after the date prescribed for filing the last return of the said year, then the

refund shall be granted within eighteen months of the date of filing of the return, fresh return or revised return.”

8. These words & figures were substituted for the words & figures “Tourism Projects, 1999” by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007 as per Notification No. VAT.1507/CR-57/Taxation-1, dt. 10.8.2007. s.16(3)(i).

8a These words were added by Mah. Act No. VIII of 2013 dated the 20th April 2013 w.e.f. 1.5.2013.

8b These words were substituted for the words “Package Scheme of Incentives-2001 or, as the case may be, Package Scheme of Incentives-2007” by Mah. Act No. XXVII of 2014 dated the 26th June 2014.

9. These “clauses (iv) & (v)” were added by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007 as per Notification No. VAT.1507/CR-57/Taxation-1, dt. 10.8.2007.

10. This clause was deleted by Mah. Act No. XV of 2011 dt. 21st April 2011 w.e.f. 1st May 2011. Earlier this clause read as: “(iv) selling any goods in the course of inter-State trade or commerce; or”

10a These words were added by Mah. Act No. VIII of 2013 dated the 20th April 2013 w.e.f. 1.5.2013.

10b This sub-clause was added by Mah. Act No. VIII of 2013 dated the 20th April 2013 w.e.f. 1.5.2013.

11 The explanation shall be inserted by Mah. Act No. XV of 2011 dt. 21st April 2011 w.e.f. 1st May 2011.

12 Clause (b) was substituted by Mah. Act No. XV of 2011 dt. 21st April 2011 w.e.f. 1st May 2011. Earlier this clause read as: “(b) The Commissioner, within one month of the receipt of the said application,—

(i) may require the dealer to furnish such bank guarantees for such amounts from such banks, for such periods and to such authorities as may be prescribed; and

(ii) may call for such additional information as he may think necessary.”

13. These “sub-sections (4) & (5)” were substituted by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007 as per Notification No. VAT.1507/CR-57/Taxation-1, dt. 10.8.2007. Prior to substituted the “sub-sections (4) & (5)” was read as under :-

“(4) Where in any period covered by a return, the dealer has made a sale in the course of inter-State trade or commerce and in the return, fresh return or revised return filed in respect of the said period, he has shown any amount to be refundable, then he may apply in the prescribed form to the Commissioner, after filing the return as may be due, for grant of refund relating to the period covered by the return, fresh return or revised return. He shall furnish a bank guarantee on or after making the said application for such amount, from such banks, for such periods and to such authorities as may be prescribed.

(5) The Commissioner shall, within one month of the receipt of bank guarantee, where it is required to be furnished under sub-section (2), (3) or (4), grant the dealer a refund of the amount claimed as refundable in the return. Where the Commissioner has not required the dealer to furnish a bank guarantee or in any case, the Commissioner has called for additional information, then the Commissioner shall grant the dealer a refund of the amount found due. The refund shall be granted within a period of three months from the date of receipt of the application or, as the case may be, the date of receipt of the additional information whichever is later.”

14. This sub-section(4) substituted by **by Mah. Act No.XV of 2011 dt.21st April 2011 w.e.f.1st April 2011. Earlier this sub-section read as:**

“(4) The Commissioner shall grant the refund under this section within three months of the receipt of application or receipt of additional information whichever is later. If the additional information is not furnished, then the refund shall be granted within six months of the receipt of the application.”

15. These words were substituted for the words “three years” **by Mah. Act No. XV of 2011 dt.21st April 2011 w.e.f.1st May 2011.**

Interest on amount of Refund

52. Interest on amount of refund:-

Where, 1[***], refund of any tax becomes due to a registered dealer, he shall, subject to rules, if any, be entitled to receive, in addition to the refund, simple interest at the prescribed rate on the amount of refund for the period commencing on the date next following the 2[last date at the period to which the refund relates and ending on the date of the order sanctioning the refund] or for a period of twenty four months, whichever is less. The interest shall be calculated on the amount of refund due to the registered dealer in respect of the said period after deducting therefrom the amount of penalty, sum forfeited and interest, if any, charged in respect of the said period and also the amount of refund, if any, 3[adjusted towards any recovery under this Act, any earlier law], or as the case may be, under the Central Sales Tax Act, 1956 (74 of 1956). If, as a result of any order passed under this Act, the amount of such refund is enhanced or reduced, as the case may be, such interest shall be enhanced or reduced accordingly. If the interest is reduced, then the amount granted in excess shall be recovered as if it is an amount payable under this Act.

4[Provided that, interest under this section shall not be granted towards any 5[***] refund granted under section 51]

Explanation.- For the purposes of this section, where the refund of tax, whether in full or in part, includes any amount of refund on any payment of tax made after the date prescribed for making the last payment in respect of the said period, then the interest, in so far as it relates to the refund arising from such payment, shall be calculated from the date of such payment to the date of such order.

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1. These words were deleted by Mah. Act No. XIV of 2005, dt. 31-3-2005 w.e.f. 1.4.2005.
 2. These words were substituted by Mah. Act No. XIV of 2005, dt. 31-3-2005 w.e.f. 1.4.2005.
 3. These words were substituted by Mah. Act No. XIV of 2005, dt. 31-3-2005 w.e.f. 1.4.2005.
 4. This Proviso was added by Mah. Act No. XIV of 2005, dt. 31st March, 2005 w.e.f. 1.4.2005.
 5. The word “provisional” was deleted by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006.

Interest on delayed Refund

53. Interest on delayed refund:-

(1) 1[Where an amount required to be refunded by the Commissioner to any person, by virtue of the provisions contained in section 51 or by virtue of an order passed under any other provision of this Act, is not so refunded to him within ninety days of the end of the respective period provided in section 51 or, as the case may be, of the date of the said order, the Commissioner shall pay such person simple interest at the prescribed rate on the said amount from the date immediately following the expiry of the period of ninety days to the date of the refund:]

Provided that, where the amount becomes refundable by virtue of an order of the Tribunal or the High Court or the Supreme Court, the interest under the provisions of this section shall be payable from the date immediately following the expiry of period of ninety days from the date of receipt of the order of the Tribunal, the High Court or the Supreme Court, by the officer whose order forms the subject of the proceedings before the Tribunal, the High Court or the Supreme Court, to the date of refund. The applicant dealer or person may supply to the said officer a certified copy of such order and if the copy is so furnished, interest shall become payable after the expiry of period of ninety days from the date of such supply.

Explanation.- If the delay in granting the refund within the period of ninety days aforesaid is attributable to the said person, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which interest is payable.

²[(1A) In case of refunds, which become due on or after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017, the provisions of sub-section (1) shall be applicable, if the delay in granting refund is more than sixty days.]

(2) Where any question arises as to the period to be excluded for the purposes of calculation of interest under the provisions of this section, such question shall be determined by the Commissioner, whose decision shall be final.

1. This Portion was substituted by Mah. Act No. XXXII of 2006, dt. 5.8.2006 w.e.f. 20.6.2006. Prior to substituted the "Portion" was read as under :-

"Where an amount required to be refunded by the Commissioner to any person, by virtue of an order issued under this Act, is not so refunded to him within ninety days of the date of the order, the Commissioner shall pay such person simple interest at the prescribed rate on the said amount from the date immediately following the expiry of the period of ninety days to the date of the refund."

2. This sub-section was inserted by Mah. Act No. XXXI of 2017, dated the 15th April 2017.

Power to withhold Refund in certain cases

54. Power to withhold refund in certain cases:-

(1) Where an order giving rise to a refund is the subject-matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and the authority competent to grant such refund is of the opinion that the grant of the refund is likely to adversely affect the revenue, such authority may, with the previous approval of the Commissioner, withhold the refund till such time as the Commissioner may determine:

Provided that, the Commissioner shall accord his approval to the withholding of the refund only if he is of the opinion that on the conclusion of such appeal, further proceedings or other proceedings, if it becomes necessary to recover the amount of refund in full or in part, then it may not be otherwise practicable or possible so to do in any reasonable period of time:

Provided further that, no order withholding the refund shall be made after the expiry of ninety days from the date of service of the order giving rise to the said refund.

(2) Where a refund is withheld under sub-section (1), the State Government shall pay interest in accordance with the provisions of section 53 on the amount of refund ultimately determined to be due to the person as a result of the appeal or further proceeding, or any other proceeding for the period from the date immediately following the expiry of ninety days from the date of service of the order referred to in sub-section (1) to the date of refund.

Advance Ruling

CHAPTER IX

PROCEEDINGS

1 [55. Advance Ruling.- (1) The applicant may make an application to the Commissioner for Advance Ruling on the questions prescribed.

(2) An applicant desirous of obtaining Advance Ruling under this section may make an application to the Commissioner in prescribed form and manner, stating any question prescribed under sub-section (1) on which the Advance Ruling is sought.

(3) The Commissioner shall constitute the Advance Ruling Authority, comprising three officials, not below the rank of Joint Commissioner by notification in the Official Gazette, for giving Advance Rulings. He may allot any of the questions or, as the case may be, all the questions prescribed under sub-section (1) to such Advance Ruling Authority.

(4) The Commissioner may also allot any application or question in such application made under section 56 and pending on the date of effect of this amendment or, as the case may be, any class of applications, to such Advance Ruling Authority.

(5) The Commissioner or, as the case may be, the Advance Ruling Authority shall, subject to rules, make Advance Ruling, within ninety days from the date of acceptance of the application by the Commissioner or, as the case may be, the Advance Ruling Authority.

(6) The applicant may withdraw his application within thirty days from the date of submission of the application.

(7)(a) No application shall be accepted where the question raised in the application,-

(i) is already pending before the Tribunal, Bombay High Court or, as the case may be, the Supreme Court in respect of the applicant, or

(ii) relates to a transaction or issue which is designed apparently for the avoidance of tax.

(b) The Commissioner or, as the case may be, the Advance Ruling Authority, may call for a report from the concerned officer, in the prescribed manner.

(c) The communication regarding the acceptance of the application shall be made to the applicant within thirty days from the date of submission of the application.

(d) No application shall be rejected under this sub-section unless an opportunity of being heard has been given to the applicant and where the application is rejected, reasons for such rejections shall be recorded in the order.

(8) (a) The Advance Ruling of the Commissioner shall be binding on all the officers, including the appellate authority or, as the case may be, on the Advance Ruling Authority in respect of the similarly situated persons.

(b) The Advance Ruling of the Advance Ruling Authority shall be binding on all the officers, including the appellate authority, other than the Commissioner, in respect of the similarly situated persons.

(9) The Commissioner or, as the case may be, the Advance Ruling Authority, may direct that the Advance Ruling shall not affect the liability of the applicant or, if the circumstances so warrant of any other person similarly situated, as respects any sale or purchase effected prior to the Advance Ruling.

(10) The appeal against the Advance Ruling order shall lie to the Tribunal and shall be subject to the conditions prescribed.

(11) Notwithstanding anything contained in this Act, no appeal shall be entertained under any circumstances whatsoever, after the date of expiry of period of thirty days from the date of communication of the Advance Ruling order to the applicant.

(12) The Advance Ruling order passed by the Advance Ruling Authority shall be subject to any directions or, as the case may be, instructions, issued under sub-section (10) of section 10 by the Commissioner and any order passed by the Commissioner under section 56, as it existed.

(13) The Commissioner or, as the case may be, the Advance Ruling Authority, may on his own motion, rectify any mistake apparent from the record and may rectify any order passed by it before the order so issued has been given effect to by the officer concerned. The applicant may also bring to the notice of the Commissioner or, as the case may be, Advance Ruling Authority, any such mistake within thirty days from the date of receipt of the said order:

Provided that, no such rectification shall be done unless the applicant has been given a reasonable opportunity of being heard:

Provided further that, an order under this sub-section shall be passed within a period of sixty days from the date of receipt of the Advance Ruling by the applicant.

(14) (a) The Commissioner may, on his own motion call for the record of any Advance Ruling issued by the Advance Ruling Authority to examine as to whether the said ruling is erroneous in so far as it is prejudicial to the interests of revenue. The Commissioner may, by serving on the applicant a notice in the prescribed form pass such order as he thinks just and proper.

(b) The Commissioner may also, for reasons to be recorded in writing on his own motion, review the Advance Ruling passed by him under this section and pass such order as he thinks just and proper. However, before initiating any action under this clause, the Commissioner shall obtain prior permission of the State Government. Such permission shall also be obtained when the Advance Ruling order is proposed to be made contrary to the order passed by the Commissioner under section 56.

(c) The Commissioner may direct that, the order of review shall not affect the liability of the person in whose case review is made in respect of any sale or purchase effected prior to the review and may likewise, if the circumstances so warrant, direct accordingly in respect of any other person similarly situated.

(d) No order shall be passed,-

(i) under clause (a), after the expiry of a period of six months from the end of the year containing the date of Advance Ruling;

(ii) under clause (b), after the expiry of a period of three months from the end of the month in which the State Government gives permission to initiate action under clause (b):

Provided that, no order under this sub-section shall be passed unless an opportunity of being heard is given to the applicant.

(15) The regulations regarding the procedure to be followed shall be formulated by the Commissioner.]

1. This section was substituted by Mah. Act No. XV of 2016 dated 26.4.2016 w.e.f. 1.5.2016. Prior to substitution, the section read as under:

“55. Advance Ruling :-

*(1) *[On and from such date, as the State Government may, by notification in the Official Gazette, specify, any registered dealer] may apply in the prescribed form and manner to the Tribunal for obtaining an advance ruling on the interpretation of any provision of this Act, rules or notifications **[in respect of a transaction proposed to be undertaken by him,] even though any question relating to the said provision has not arisen in any proceeding.*

(2) If the Tribunal finds that the application does not involve any important and substantial question of law, then the Tribunal may, after giving the applicant a reasonable opportunity of being heard, reject the application.

*(3) If the application is admitted, then for determination of the question, the President shall cause a Bench to be constituted, consisting of three ***[****] members of the Tribunal, a senior practitioner entitled to appear before the Tribunal ****[to be nominated by the President] and an Officer of the Sales Tax Department not below the rank of Joint Commissioner, to be nominated by the Commissioner. After hearing the applicant, the Bench shall pronounce its advance ruling on the question specified in the application. If the members of the Bench are divided, then the decision shall be the decision of the majority. The pronouncement of the advance ruling shall, in so far as it may be, made by the said Bench within four months of the receipt of the application by the Tribunal.*

*(4) The advance ruling so pronounced shall be binding unless there is a change of law on the basis of which the advance ruling has been pronounced and accordingly no such question shall be entertained in any proceeding by any authority appointed or constituted under this Act, save as provided in section 27. *****[***].”*

*This portion was substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

**These words were inserted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

*** These words were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

**** These words were inserted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

***** These words were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Determination of disputed questions

1[56. Deleted *****]

.....
1. This section was deleted by Mah. Act No. XV of 2016 dated 26.4.2016 w.e.f. 1.5.2016. Prior to deletion the section read as under:

“56. Determination of disputed questions:-

(1) If any question arises, otherwise than in a proceedings before a Court or the Tribunal under section 55, or before the Commissioner has commenced assessment of a dealer under section 23, whether, for the purposes of this Act,-

- (a) any person, society, club or association or any firm or any branch or department of any firm, is a dealer, or*
- (b) any particular person or dealer is required to be registered, or*
- (c) any particular thing done to any goods amounts to or results in the manufacture of goods, within the meaning of that term, or*
- (d) any transaction is a sale or purchase, or where it is a sale or purchase, the sale price or the purchase price, as the case may be, thereof, or*
- (e) in the case of any person or dealer liable to pay tax, any tax is payable by such person or dealer in respect of any particular sale or purchase, or if tax is payable, the rate thereof, or*
- (f) set-off can be claimed on any particular transaction of purchase and if it can be claimed, what are the conditions and restrictions subject to which such set-off can be claimed,*

the Commissioner shall, subject to rules, make an order determining such question.

Explanation.- *For the purposes of this sub-section, the Commissioner shall be deemed to have commenced assessment of the dealer under section 23 when the dealer is served with any notice by the Commissioner under that section.*

(2) The Commissioner may direct that the determination shall not affect the liability under this Act of the applicant or, if the circumstances so warrant, of any other person similarly situated, as respects any sale or purchase effected prior to the determination.

(3) The Commissioner, for reasons to be recorded in writing, may, on his own motion, review an order passed by him under sub-section (1) or (2) and pass such order thereon as he thinks just and proper. The Commissioner may direct that the order of review shall not affect the liability of the person in whose case the review is made in respect of any sale or purchase effected prior to the review and may likewise, if the circumstances so warrant., direct accordingly in respect of any other person similarly situated :

Provided that, no order shall be passed under this sub-section unless the dealer or the person in whose case the order is proposed to be passed has been given a reasonable opportunity of being heard:

Provided further that, before initiating any action under this sub-section, the Commissioner shall obtain prior permission of the State Government.

(4) If any such question arises from any order already passed under this Act or any earlier law, no such question shall be entertained for determination under this section; but such question may be raised in appeal against such order.

(5) The Commissioner, in so far as he may, shall decide the applications for determination in the chronological order in which they were filed."

Arrangement to defeat the intention and application of the Act to be void

57. Agreement to defeat the intention and application of the Act to be void:-

(1) If the Commissioner is satisfied that an arrangement has been entered into between two or more persons or dealers to defeat the application or purposes of this Act or any provision of this Act, then the Commissioner may by order declare the arrangement to be null and void as regards the application and purposes of this Act. He may, by the said order, provide for increase or decrease in the amount of tax payable by any person or dealer who is affected by the arrangement whether or not such dealer or person is a party to the arrangement, in such manner as the Commissioner considers appropriate so as to counteract any tax advantage obtained by that dealer from or under the arrangement.

(2) For the purposes of this section,-

(i) "arrangement" includes any contract, agreement, plan or understanding, whether enforceable in law or not, and all steps and transactions by which the arrangement is sought to be carried into effect;

(ii) "tax advantage" includes,-

(a) any reduction in the liability of any dealer to pay tax,

(b) any increase in the entitlement of any dealer to claim set-off or refund,

(c) any reduction in the sale price or purchase price receivable or payable by any dealer.

(3) Before passing any order under this section, the Commissioner shall afford a reasonable opportunity of being heard to any such person or dealer whose tax advantage is sought to be counteracted.

Special provisions for statutory orders pertaining to a period shorter or longer than a year

58. Special provisions for statutory orders pertaining to a period shorter or longer than a year:-

Where any order under this Act is being passed in respect of a dealer for a part of a year for any reason whatsoever, then for the purposes of levy of tax or exemption from the payment of whole or part of tax and for any purposes incidental or ancillary thereto, any reference to any specified amount or amounts in any section other than section 3 or in any rule or in any notification issued under this Act in relation to a year shall, for the purposes of such order, be construed as a reference to

the said amount or amounts as modified by multiplying each such amount or amounts by a number of which the numerator is the number of months in the period for which the order is being passed and the denominator is twelve :

Provided that, where the period includes a part of a month, then if such part is of fifteen days or more, it shall be increased to one complete month and if such part is less than fifteen days, it shall be ignored:

Provided further that, where such period is of less than fifteen days, it shall be increased to one complete month.

Power to transfer proceedings

59. Power to transfer proceedings:-

(1) The Commissioner may, after giving the parties a reasonable opportunity of being heard in the matter, by order in writing after recording his reasons for so, doing so transfer any proceedings or class of proceedings under any provision of this Act, from himself to any other officer and he may likewise transfer any such proceedings, including a proceeding pending with any officer or already transferred under this section, from any officer to any other officer whether with or without concurrent jurisdiction or to himself :

Provided that, nothing in this section shall be deemed to require any such opportunity to be given where the transfer is from any officer to any other officer and the offices of both the officers are situated in Brihan Mumbai including Thane, Palghar and Raigad Districts] or, as the case may be, in the same district as constituted under section 4 of the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966).

(2) For the purposes of this section, any proceedings shall be deemed to be pending only when any authority, having appropriate jurisdiction, issues notice under the provisions of this Act, rules or notifications and the proceedings shall be deemed to be pending only after issue of such notice.

(3) Where no proceedings are pending before any authority, then any authority having appropriate jurisdiction over a person or dealer, may initiate and complete any proceedings whatsoever.

Explanation I.- In this section, the word "proceedings" in relation to any dealer means all proceedings under this Act in respect of any period, which may be pending on the date of such order or which may have been completed on or before such date, and also includes all proceedings under this Act which may be commenced after the date of such order in respect of the said period in relation to such dealer.

2[(**Explanation II**) ***].

1. The words "Thane and Raigad District" were substituted for the words "Thane District" by Mah. Act No. VIII of 2012 dated 25.4.2012 w.e.f.1.5.2012. The words "Thane, Palghar and Raigad Districts" were substituted for the words

“Thane and Raigad District” by Mah. Act No. XXVI of 31st March 1918 w. e. f. 1.4.2018.

2. Explanation II was deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Prohibition against collection of amounts by way of tax or in lieu of tax in certain cases

60. Prohibition against collection of amounts by way of tax or in lieu of tax in certain cases:-

(1) No person shall collect any sum by way of tax in respect of sales of any goods which are not taxable goods.

(2) No person, who is not a registered dealer, shall collect in respect of any sale of goods any sum by way of tax from any other person and no registered dealer shall collect any amount by way of tax or in lieu of tax in excess of the amount of tax payable by him on any sale of goods under the provisions of this Act.

Explanation.- For the purposes of this sub-section, where, the total amount of tax collected on the turnover of sales by a registered dealer exceeds the amount of tax payable by the dealer on such turnover, and if neither the said dealer nor the Commissioner can identify the individual transactions on which such excess collection has taken place, then, for the purposes of this sub-section, it shall be deemed that the excess collection is attributable in proportionate amounts to all the transactions comprising the turnover and accordingly it shall be deemed for the purposes of this section that an excess amount as aforesaid has been collected on each and every such transaction.

(3) Nothing in sub-section (2) shall apply where a person is required to collect such amount of tax separately in order to comply with the conditions and restrictions imposed on him under the provisions of any law for the time being in force.

(4) Notwithstanding anything contained in sub-section (2), a dealer who is not a works contractor and who has been permitted by the Commissioner to pay a lump-sum in lieu of tax under any provision of this Act, rules or notification shall not collect any sum by way of tax or in lieu of tax on the sale of goods if made during the period to which such lump-sum payment applies.

Accounts to be audited in certain cases

61. Accounts to be audited in certain cases:-

(1) Every dealer liable to pay tax shall,-

1[(a) if the,-

(i) aggregate of his turnover of sales and the value of goods transferred to any other place of his business or of his agent or principal, situated outside the State, not by reason of sale, or

(ii) turnover of purchases,
exceeds rupees one crore in any year;]

2[(b) *****]

3[(c) if he holds an Entitlement Certificate in respect of any Package Scheme of Incentives, granted under this Act or, as the case may be, under the Bombay Sales Tax Act, 1959.]

get his accounts in respect of such year audited by an Accountant within the prescribed period from the end of that year and furnish within that period the 4[complete report of such audit] in the prescribed form duly signed and verified by such accountant and setting forth such particulars and certificates as may be prescribed.

4a[Provided that, for the year 2017-18, the provisions of this sub-section shall be

applicable to a dealer, whose registration is deemed to have been cancelled under sub-section (6A) of section 16, if the,—

(a) aggregate of his turnover of sales and the value of goods transferred to any other place of his business or of his agent or principal, situated outside the State, not by reason of sale, or

(b) turnover of purchases,
exceeds rupees twenty five lakh.]

4b[Provided further that, a dealer whose tax liability, in any year commencing on or after the 1st April 2019 does not exceed rupees twenty-five thousand, shall not be liable to file such audit report. Explanation.—For the purpose of this proviso, the expression “tax liability” means the total of all taxes payable by a dealer under the Value Added Tax Act or, as the case may be, the Central Sales Tax Act, 1956, after adjustment of the amount of set-off or refund claimed by the dealer, if any, under the respective Acts.]

5[Explanation-I.- 5a[For the purposes of this section and sub-section (1) of section 32A], “Accountant” means a Chartered Accountant within the meaning of the Chartered 6[Accountants Act, 1949 or a Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959 (23 of 1959)].

Explanation-II.- For the purposes of this section, an audit report shall be deemed to be the “complete audit report” only if all the items, certification, tables, schedules and annexures are filled appropriately and are arithmetically self-consistent.]

(2) If any dealer liable to get his accounts audited under sub-section (1) fails to furnish a copy of such report within the time as aforesaid, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, impose on him, in addition to any tax payable, a sum by way of penalty equal to one tenth per cent. of the total sales 7[* * *]

8[*****]

9[(2A) Where a dealer liable to file audit report under this section has knowingly furnished the audit report which is not complete, then the Commissioner may, after giving a reasonable opportunity of being heard, impose on him, in addition to any tax payable or any other penalty leviable under this section or any other section, a sum by way of penalty equal to one tenth per cent., of the total sales.]

10[(3) Nothing in sub-sections (1) and (2) shall apply to Departments of the Union Government, any Department of any State Government, local authorities, the Railway Administration as defined under the Indian Railways Act, 1989 (24 of 1989), the Konkan Railway Corporation Limited and the Maharashtra State Road Transport Corporation constituted under the Road Transport Corporation Act, 1950 (64 of 1950).]

1 This clause (a) substituted by Mah. Act No. XXVII of 2014 dated the 26th June 2014. Prior to substitution this clause read as : “(a) if his turnover of sales or, as the case may be, of purchases *[exceeds rupees sixty lakh] in any year, or

*These words were substituted for the words ‘exceed or exceeds rupees fourty lakh’ by Mah. Act No.XII of 2010 dt.29.04.2010 w.e.f. 1st May, 2010

2 Clause (b) was substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005 and again deleted by Mah Act No. XXVII of 2014 dated the 26th June 2014. Prior to deletion this clause (b) shall be read as :

“(a) a dealer or person who holds licence in,—

(i) Form P.L.L. under the Maharashtra Distillation of Spirit and Manufacture of Potable Liquor Rules, 1966, or

(ii) Form B-RL under the Maharashtra Manufacture of Beer and Wine Rules, 1966, or

(iii) Form E under the Special Permits and Licence Rules, 1952, or

(iv) Forms FL-I, FL-II, FL-III, FL-IV under the Bombay Foreign Liquor Rules, 1953, or

(v) Forms CL-I, CL-II, CL-III, CL/FL/TOD-III under the Maharashtra Country Liquor Rules, 1973; “

3 Clause (c) was inserted by Mah. Act No.XII of 2010 dt.29.04.2010 w.e.f. 1st May, 2010

4 These words were substituted for the words “report of such audit” by Mah. Act No. XV of 2011 dt.21st April 2011 w.e.f.1st May 2011.

4a This proviso was inserted by Mah. Act No. XXVI of 2018, dated the 31st March 2018 w. e. f.

1.4.2018.

4b. This proviso was inserted by Mah. Act No. XVI of 2019, dated the 9th July 2019.

5. The existing explanation renumbered as I and explanation II newly added by Mah. Act No. XV of 2011 dt.21st April 2011 w.e.f. 1st May 2011.

5a These words were substituted for the words “For the purposes of this section” by Mah. Act No. VIII of 2013 dated the 20.4.2013 w.e.f. 1st May 2013.

5 These words & figures were substituted for the words & figures “Accountants Act, 1949 (38 of 1949)” by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007 as per Notification No. VAT.1507/CR-57/Taxation-1, dt. 10.8.2007.

6 These words were deleted for the words “or as the case may be, purchases or a sum of one lakh rupees, whichever is less” by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007 as per Notification No. VAT.1507/CR-57/Taxation-1, dt. 10.8.2007. s.17(1)

7 Proviso was deleted by Mah Act No. XXVII of 2014 dated the 26th June 2014 earlier this proviso was added by Mah. Act No. XIV of 2005, dt. 31st March, 2005 w.e.f. 1.4.2005 .Prior to deletion it read as under:

“Provided that, if the dealer fails to furnish a copy of such report within the period prescribed under sub-section (2), but files it within one month of the end of the said period, and the dealer proves to the satisfaction of the Commissioner that the delay was on account of factors beyond his control, then no penalty under this sub-section shall be imposed on him.”

8 Sub-section(2A) inserted by Mah. Act No.XV of 2011 dt.21st April 2011 w.e.f.1st May 2011.

9 Sub-section (3) was added by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007 as per Notification No. VAT.1507/CR-57/Taxation-1, dt. 10.8.2007.

a dealer or person who holds licence in,—

(i) Form P.L.L. under the Maharashtra Distillation of Spirit and Manufacture of Potable Liquor Rules, 1966, or

(ii) Form B-RL under the Maharashtra Manufacture of Beer and Wine Rules, 1966, or

(iii) Form E under the Special Permits and Licence Rules, 1952, or

(iv) Forms FL-I, FL-II, FL-III, FL-IV under the Bombay Foreign Liquor Rules, 1953, or

(v) Forms CL-I, CL-II, CL-III, CL/FL/TOD-III under the Maharashtra Country Liquor Rules, 1973;

Assessment proceedings etc. not to be invalid on certain grounds

62. Assessment proceedings etc., not to be invalid on certain grounds:-

(1) No 1[***] assessment (including review, appeal, rectification 2[, penalty and forfeiture]), notice, summons or other proceedings furnished, made or issued or taken or purported to have been furnished, made or issued or taken in pursuance of any of the provisions of this Act shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such 1[***] assessment, notice, summons or other proceedings, if such 1[***] assessment, notice, summons or other proceedings are, in substance and effect in conformity with or according to the intent, purposes and requirements of this Act.

(2) The service of any notice, order or communication shall not be called in question, if the said notice, order or communication, as the case may be, has already been acted upon by the dealer or person to whom it is issued or which service has not been called in question at or in the earlier proceedings commenced, continued or finalized pursuant to such notice, order or communication.

(3) No order, including an order of assessment, review, appeal or rectification 2[, penalty or forfeiture] passed under the provisions of this Act shall be invalid merely on the ground that the action could also have been taken by any other authority under any other provisions of this Act.

1 This word was deleted by Mah. Act No. XIV of 2005, dt. 31-3-2005 w.e.f. 1.4.2005.

2 These words were substituted by Mah. Act No. XIV of 2005, dt. 31-3-2005 w.e.f. 1.4.2005.

Accounts

CHAPTER X

LIABILITY TO PRODUCE ACCOUNTS ETC.

63. Accounts:-

(1) Every dealer liable to pay tax under this Act, and any other dealer, who is required so to do by the Commissioner by notice in the prescribed form served on him, shall keep a true account of the value of the goods sold or purchased by him.

(2) If the Commissioner considers that the accounts kept are not sufficiently clear or intelligible to enable him to determine whether or not a dealer is liable to pay tax during any period, or are so kept as not to enable a proper scrutiny of the returns or the Statements furnished, the Commissioner may require such dealer by notice in writing to keep such accounts, including records of sales or purchases in such form or manner as in his opinion is necessary for the purpose of proper quantification of tax and as he may, subject to anything that may be prescribed in that behalf, in writing direct.

(3) The Commissioner may, subject to such conditions or restrictions as may be prescribed in this behalf, by notice in writing direct any dealer, or by notification in the Official Gazette, direct any class of dealers, to maintain accounts and records showing such particulars regarding their purchases, sales or delivery of goods, and payments made or received towards sale or purchase of goods in such form, and in such manner, as may be specified by him.

(4) Every registered dealer shall ordinarily keep all his accounts, registers and documents relating to his stocks of goods, or to purchases, sales and delivery of goods made by him or payments made or received towards sale or purchase of goods, at the place or places of business specified in his certificate of registration or with the previous approval of the Commissioner, at such other place as may be agreed to by the Commissioner.

1[(5) Where,—

(a) any sale of goods is made and thereafter the goods are returned within the prescribed time, then the goods returned shall be accounted for in the return for the period in which appropriate entries are taken in the books of accounts; and

(b) any purchase of goods is made and thereafter the goods are returned within the prescribed time, then the goods returned shall be accounted for in the return for the period in which appropriate entries are taken in the books of accounts.

(6) If the sale price or, as the case may be, the purchase price of any goods is varied and credit notes, or as the case may be, debit notes, are requested to be issued to give effect to such variation, then,—

(a) the credit notes or, as the case may be, debit notes, shall separately specify the component of tax, if any, and the component of price, and

(b) such credit notes or, as the case may be, debit notes, shall be accounted for in the return in the period in which appropriate entries for debit notes and credit notes are taken in the books of accounts.]

2[(7) If during the course of any proceedings in the case of any dealer or otherwise, it appears to the Commissioner that the quantum of tax payable or, as the case may be, the amount of set-off or refund as disclosed in the returns filed by the dealer or, as the case may be, recorded in the books of accounts of that dealer is incorrect, then the 3[Commissioner shall] send an intimation in the prescribed Form to such dealer communicating the likely additional quantum of tax, if any, which should have been paid, or the likely reduction in the quantum of set-off or refund and may advise him to file a return or, as the case may be, revised return after taking into account the contents of the intimation.]

1. Sub-sections (5) & (6) were added by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

2. Sub-section (7) was added by Mah. Act No. XVII of 2009, dt. 27.6.2009 w.e.f. 1st July, 2009.

3. These words were substituted for words “Commissioner may” by Mah. Act No. XXVII of 2014 dated the 26th June 2014.

Production and inspection of accounts and documents and search of premises

64. Production and inspection of accounts and documents and search of premises :-

(1) The Commissioner may, subject to such conditions as may be prescribed, require any dealer to produce before him any accounts or documents, or to furnish any information, relating to stocks of goods of, or to sales, purchases and delivery of goods or to payments made or received towards sales or purchases of goods by the dealer, or any other information relating to his business, as may be necessary for the purposes of this Act.

(2) All accounts, registers and documents relating to stock of goods of, or to purchases, sales and delivery of goods, payments made or received towards sale or purchase of goods by any dealer and all goods and cash kept in any place of business of any dealer, shall at all reasonable times, be open to inspection by the Commissioner, and the Commissioner may take or cause to be taken such copies or extracts of the said accounts, registers or documents and such inventory of the goods and cash found as appear to him to be necessary for the purposes of this Act.

(3) If the Commissioner has reason to believe that any dealer has evaded or is attempting to evade the payment of any tax due from him, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer as may be necessary, and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with any proceeding under this Act 1[or for any prosecution]:

Provided that, on application of the dealer, the Commissioner shall provide true copies of the said accounts, registers or documents.

(4) For the purposes of sub-section (2) or sub-section (3), the Commissioner may enter and search any place of business of any dealer or any other place where the Commissioner has reason to believe that the dealer keeps or is for the time being keeping any accounts, registers or documents of his business or stocks of goods relating to his business.

(5) Where any books of accounts, other documents, money or goods are found in the possession or control of any person in the course of any search, it shall be presumed, unless the contrary is proved, that such books of accounts, other documents, money or goods belong to such person.

Explanation.- For the purposes of this section, “place of business” includes a place where the dealer is engaged in business, through an agent by whatever name called or otherwise, the place of

business of such agent, a warehouse, godown or other place where the dealer or the agent stores his goods and any place where the dealer or the agent keeps the books of accounts.

1. These words were inserted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Cross-checking of transactions

65. Cross-checking of transactions :-

(1) With a view to preventing evasion of tax and ensuring proper compliance with the provisions of this Act, the Commissioner may, from time to time, collect information regarding sales and purchases effected by any class of dealers and cause any of such transactions of sale and purchase to be cross-checked.

(2) For this purpose, the Commissioner may, from time to time, by notification in the *Official Gazette* require any class of dealers to furnish such information, details and particulars as may be specified therein regarding the transactions of sales and purchases effected by them during the period mentioned in the said notification in such form, to such authority and by such date as may be specified therein.

1[(3) ***]

1[(4) ***]

1 Sub-sections (3) & (4) were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Survey

66. Survey:-

(1) With a view to identifying dealers who are liable to pay tax under this Act, but have remained unregistered, the Commissioner shall, from time to time, cause a survey of unregistered dealers to be taken.

(2) For the purposes of the survey, the Commissioner may, by general or special notice, require any dealer or class of dealers to furnish the names, addresses and such other particulars as he may find necessary relating to the persons and dealers who have purchased any goods from or sold any goods, to such dealer or class of dealers during any given period.

(3) For the purposes of survey, the Commissioner may call for details and particulars regarding the services provided by public utilities and financial institutions including Banking companies which he is of the opinion shall be relevant and useful for the purposes of the survey. He may, from time to time, cause the results of the survey to be published in any manner as he thinks fit, so however as not to disclose or indicate the identity of any particular unregistered dealer identified during the survey.

1[(4) ***]

1[(5) ***]

1[(6) ***]

1[(7) ***]

1 Sub-sections (4), (5), (6) & (7) were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Establishment of Check Post and barriers

67. Establishment of check posts and barriers:-

(1) If the Government considers it necessary with a view to preventing or checking evasion of tax under the Act, it may, by notification in the Official Gazette, direct the establishment of check-post or the erection of a barrier or both, at such place in the State or at the border of the State as may be specified therein.

(2) The owner or person in charge or driver of a vehicle shall,-

(a) carry with him a tax invoice or a bill of sale or a delivery note or such other documents as may be prescribed, in respect of the goods carried by the vehicle;

(b) produce the documents referred to in sub-clauses (a) before any officer-in-charge of check-post or barrier or any other officer authorised under sub-section (1) of section 77 and obtain the seal of such officer affixed thereon and give one copy of the bill of sale and delivery note or other document to the said officer and carry and retain with him the other copy until the termination of movement of goods;

(c) on entering the State, report at the first situated check-post or barrier, and while leaving the State, report at the last Situated check-post or barrier and give a declaration to the said officer containing such particulars as may be prescribed in respect of the goods carried in the vehicle;

(d) stop the vehicle and keep it stationary so long as may be required by the said officer to examine the goods and inspect the records relating to the goods carried in the vehicle and which are in the possession of such driver or other person-in-charge of a vehicle, and who shall, if so required, give his name and address and the name and address of the owner of the vehicle.

(e) Where any vehicle is intercepted by an officer authorised under sub-section (1) of section 77, such officer may, if he deems it necessary, direct the owner or driver or person-in-charge of the vehicle to take it to the nearest check-post or barrier or police station and the owner, driver or person-in-charge of the vehicle shall comply with such direction.

Transit of goods by road through the State and issue of transit pass

68. Transit of goods by road through the State and issue of transit pass:- (1)
Where a vehicle is carrying taxable goods,-

(a) from any place outside the State to any place outside the State and passes through the State; or

(b) imported into the State from any place outside the country and such goods are being carried to any place outside the State.

the driver or any other person-in-charge of such vehicle shall furnish the prescribed information and obtain a transit pass in the prescribed form, in duplicate, from the officer in charge of the first check-post or barrier after its entry into the State or after movement of

such goods has commenced from the State, as the case may be, or from the officer to whom powers have been delegated under sub-section (1) of section 77 upon interception of the goods vehicle after its entry into the State or after movement of such goods has commenced, as the case may be.

(2) The driver or the person in charge of the vehicle shall deliver within the stipulated time a copy of the transit pass obtained under sub-section (1) to the officer-in-charge at the last check-post or barrier before its exit from the State.

(3) (a) If for any reason, the goods carried in a vehicle are not moved out of the State within the time stipulate in the transit pass, the owner, driver or person-in-charge of the goods vehicle shall furnish to the officer empowered in this behalf the reasons for such delay and other particulars, if any, thereof and such officer shall after due enquiry, where necessary, extend the time of exit by suitably amending the transit pass.

(b) Where the goods carried by a vehicle, after their entry into the State or after commencement of movement, as the case may be, are claimed to be transported outside the State by any other vehicle or by any other means, the onus of proving that the goods actually moved out of the State shall be on the driver, person-in-charge or owner of the vehicle who originally brought the goods into the State.

(4) If the driver or any other person-in-charge of the vehicle does not comply with the requirements of sub-section (2), then it shall be presumed, unless proved otherwise, that the said goods have been sold within the State by the owner of the vehicle and the owner shall be assessed to tax as if he is a dealer liable to pay tax by an officer empowered in this behalf by the Commissioner and all the provisions of this Act shall apply accordingly.

(5) If the owner of the vehicle having obtained the transit pass as provided under sub-section (1) fails to deliver the same as provided in sub-section (2), he shall be liable to pay by way of penalty a sum equal to twice the amount of tax leviable on the goods transported.

(6) In a case where a vehicle owned by a person is hired for transport of goods by some other person, the hirer of the vehicle shall, for the purposes of this section, be also deemed to be the owner of the vehicle.

Automation

69. Automation:-

(1) The State Government may, by notification in *Official Gazette*, provide that the provisions contained in the Information Technology Act, 2000 (21 of 2000), and the rules made and directions given under that Act, including the provisions relating to digital signatures, electronic governance, attribution, acknowledgement and dispatch of electronic records, secure electronic records and secure digital signatures and digital signature certificates as are specified in the said notification, shall, in so far as they may, as far as feasible, apply to the procedures under this Act.

(2) Where any notice, 1[or communication] is prepared on any automated data processing system and is properly served on any dealer or person, then the said notice, 1[or communication] shall not be required to be personally signed by any officer or person and the said notice, 1[or communication] shall not be deemed to be invalid only on the ground that it is not personally signed by any such officer.

2[(3) Where any fresh certificate of registration is prepared on any automated data processing system and is issued to any dealer, then such fresh certificate of registration shall not be required to be personally signed by any officer and the said certificate shall not be deemed to be invalid only on the ground that it is not personally signed by any such officer.]

1. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

2. Sub-section (3) added and shall be deemed to have been added w.e.f. 1st April, 2005 by Mah. Act No. XXV of 2007, dt. 6.8.2007.

Power to collect statistics

CHAPTER XI

STATISTICS

70. Power to collect statistics:-

(1) The Commissioner may, if he considers that or the purposes of the better administration of this Act, it is necessary so to do, he may by notification in the Official Gazette, direct that statistics be collected relating to any matter dealt with, by or in connection with to this Act.

(2) Upon such direction being given the Commissioner, or any person or persons, authorised by the Commissioner in this behalf, may, by notification in the Official Gazette; and if found necessary by notice in any newspapers or in such other manner as in the opinion of the Commissioner or the said person, is best suited to bring the notice to the attention of dealers and other person or persons, call upon all dealers or any class of dealers or persons to furnish such information or returns as may be specified therein relating to any matter in respect of which statistics is to be collected. The form in which the persons to whom or. the authorities to which, such information or returns should be furnished, the particulars which they should contain, and the intervals in which such information or returns should be furnished, shall be such as may be prescribed.

1[(3) Any person, who fails to furnish information as provided in this section within the prescribed period, shall be liable to pay by way of penalty a sum not exceeding rupees one lakh and in case of continuing default, for a period beyond two months, a further penalty of rupees one thousand for every day of such continuance.]

.....
.....
1. This sub-section was added by Mah. Act No. XV of 2016 dated 26.4.2016 w.e.f. 26.4.2016.

Disclosure of information by a public servant

71. Disclosure of information by a public servant:-

(1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act (other than proceeding before a Criminal Court), or in any record of any assessment proceeding, or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act shall, save as provided in sub-section (3), be treated as confidential; and notwithstanding anything contained in the Indian Evidence Act, 1872, no Court shall save as aforesaid, be entitled to require any servant of the Government to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof.

(2) Save as provided in sub-section (3), if any servant of the Government discloses any of the particulars referred to in sub-section (7), he shall, on conviction, be punished with imprisonment which may extend to six months or with fine or with both:

Provided that, no prosecution shall be instituted under this section except with the previous sanction of the State Government.

(3) Nothing contained in this section shall apply to the disclosure of,-

(a) any such particulars in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, for the purpose of any prosecution under the Indian Penal Code (XLV of 1860) or the Prevention of Corruption Act, 1988 (49 of 1988), or this Act, or any other law for the time being in force; or

(b) any such particulars to the State Government or to any person acting in the execution, or for the purposes, of this Act; or

(c) any such particulars when such disclosure is occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand; or

(d) any such particulars to 1[a Civil Court or Tribunal constituted under any Central law] in any suit, to which the Government is a party, which relates to any matter arising out of any proceeding under this Act; or

(e) any such particulars to any officer appointed to audit receipts or refunds of the tax imposed by this Act; or

(f) any such particulars where such particulars are relevant the purposes of any inquiry into the conduct of an official of the Sales Tax Department, to any person or persons appointed as an inquiry officer under any relevant law; or

(g) such facts to an officer of the Central Government or any State Government as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty imposed by it; or

(h) any such particulars, when such disclosure is occasioned by the lawful exercise by a public servant of his powers under the Bombay Stamp Act, 1958 (Bom. X of 1958) or the Indian Stamp Act, 1899 (II of 1899), to impound an insufficiently stamped document; or

(i) any such particulars where such particulars are relevant to any inquiry into a charge of misconduct in connection with sales tax proceedings against a legal practitioner, sales tax practitioner, cost accountant or chartered accountant, to the authority, if any, empowered to take disciplinary action against the members practising the profession of a legal practitioner, sales tax practitioner, cost accountant or chartered accountant, as the case may be; or

(j) any such particulars to the Director, Bureau of Economics and Statistics or any officer serving under him or to any person or persons authorised under sub-section (2) of section 70 as may be necessary for enabling the Director or such person or persons to carry on their official duties; or

(k) any such particulars to any agency appointed for the purposes of data entry on any automated system or for the purpose of operating, upgrading or maintaining any automated system where such agency is contractually bound not to use or disclose such particulars except for the aforesaid purposes ; or

(l) any such particulars to an officer of the Central Government or any State Government as may be necessary for the administration of, or for the purposes of inquiry or prosecution under, any law in force in any part of India.

1. These words substituted by the Mah. Act No. XIV of 2005 dt.31st March 2005 w.e.f. 1st April 2005.

Disclosure Of information required under section 70 and failure to furnish information or return under that section

72. Disclosure of information required under section 70 and failure to furnish information or return under that section:-

(1) No information of any individual return or part thereof, with respect to any matter given for the purposes of section 70 shall, without the previous consent in writing of the dealer or person or his authorised agent, be published in such manner as to enable any particulars to be identified as referring to a particular dealer and no such information shall be used for the purpose of any proceedings under the provisions of this Act.

(2) Except for the purposes of prosecution under this Act, or any other Act, no person who is not engaged in the collection of statistics under this Act or of compilation or computerization thereof for the purposes of this Act, shall be permitted to see or have access to any information or any individual return referred to in that section.

(3) If any person engaged in connection with the collection of statistics under section 70 or compilation or computerization thereof willfully discloses any information or the contents of any return given or made under that section, otherwise than in execution of his duties under that section or for the purposes of the prosecution of an offence under this Act or under any other Act, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

1[Provided that, no prosecution shall be instituted under this subsection, except with the previous sanction of the State Government.]

(4) Nothing in this section shall apply to the publication of any information relating to a class of dealers or class of transactions, if in the opinion of the Commissioner, it is desirable in the public interest, to publish such information.

1. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Publication & disclosure of information respecting dealers & other persons in public interest

73. Publication and disclosure of information respecting dealers and other persons in public interest:-

(1) Notwithstanding anything contained in sections 71 and 72, if the State Government is of the opinion that it is necessary or expedient in the public interest to publish or disclose the names of any dealers or other persons and any other particulars relating to any proceedings under this Act in respect of such dealers and persons, it may publish or disclose or cause to be published or disclosed such names and particulars in such manner as it thinks fit.

(2) No publication or disclosure under this section shall be made in relation to any tax levied or penalty imposed or interest levied or any conviction for any offence connected with any proceeding under this Act, until the time for presenting an appeal to the appropriate appellate authority has expired without an appeal having been presented or the appeal, if presented has been disposed of.

Explanation.- In the case of a firm, company or other association of persons, the names of the partners of the firm, the directors, managing agents, secretaries, treasurers or managers of the

company or the members of the association, as the case may be, may also be published or disclosed, if, in the opinion of the State Government, the circumstances of the case justify it.

Offences and penalties

CHAPTER XII

OFFENCES AND PENALTIES

1[74. Offences and penalty:-

(1) Whoever knowingly,—

- (a) not being a registered dealer under this Act, represents that he is or was a registered dealer at the time when he sells or buys goods, or
- (b) furnishes a false return, or
- (c) produces before the Commissioner or the Tribunal, a false bill, cash memorandum, voucher, declaration, certificate or other document referred to in sub-section (4) of section 29, or
- (d) keeps false account of the value of goods bought or sold by him in contravention of sub-section (1) of section 63, or
- (e) produces false accounts, registers or documents or knowingly furnishes false information, or
- (f) issues to any person any certificate or declaration, under the Act, rules or notifications, or a bill, cash memorandum, voucher, delivery challan, lorry receipt or other document which he knows or has reason to believe to be false, or
- (g) falsely represents that he is authorized under section 82 to appear before any authority in any proceeding,

shall, on conviction, be punished with rigorous imprisonment for a term which shall not be less than one month but which may extend to one year and with fine.

2[(1A) (i) Whoever knowingly with the intention to defraud revenue, issues or produces a false tax invoice and thereby makes a false claim in respect of the set-off or the refund, or claims any other deduction that results into reduced tax liability or enhances the amount of refund, or

(ii) abets any of the aforesaid offences,

shall, on conviction, be punished with rigorous imprisonment for a term which shall not be less than one year but which may extend to two years and with fine.]

(2) Whoever wilfully attempts in any manner whatsoever to evade any tax leviable under this Act or payment of any tax, penalty or interest under this Act, shall, on conviction, be punished with rigorous imprisonment which shall not be less than three months but which may extend to one year and with fine.

(3) Whoever,—

(a) fails, without sufficient cause, to comply with the requirements of sub-section (3) of section 14, or

(b) is engaged in business as a dealer without being registered under section 16, or

³[(c) *****]

(d) fails, without sufficient cause, to furnish any information required by section 18, or

(e) fails, without sufficient cause to furnish a declaration or, as the case may be, a revised declaration as provided in sub-section (1) of section 19 or fails without sufficient cause to communicate the permanent account number obtained under the Income tax Act, 1961 (43 of 1961) or, as the case may be, fails to state whether he has applied for the same and fails without sufficient cause to provide the details of the application as provided in sub-section (2) of section 19, or

(f) fails, without sufficient cause, to furnish any return or, as the case may be, a complete and self-consistent return as required by section 20 by the date and in the manner prescribed, or

(g) fails, without sufficient cause, to pay the tax deductible at source or to deduct at source such tax, or fails without sufficient cause to obtain the sales tax deduction account number or fails without sufficient cause to file a return as required under the provisions of section 31, or

(h) fails, without sufficient cause, to comply with the requirements of the notice issued under sub-section (1) of section 33, or

(i) fails, without sufficient cause, to comply with the requirements of any order issued under sub-section (1) of section 35, or

(j) fails, without sufficient cause, to comply with the requirements of any order issued under sub-section (3) of section 38, or

(k) fails, without sufficient cause, to comply with the requirements of section 42, or

(l) without reasonable cause, contravenes any of the provisions of section 60, or

(m) fails, without sufficient cause, to get his accounts audited or furnish the report of the audit, as required under section 61, or

(n) fails, without sufficient cause, to comply with the requirements of section 63, or

(o) fails, without sufficient cause, to comply with the requirements of section 64, or

(p) fails, without sufficient cause, to comply with the requirements of section 65, or

(q) fails, without sufficient cause, to furnish any information or return required by section 70 by the date and in the manner prescribed or willfully furnishes any information or return which he knows to be incorrect or false, or

(r) fails, without sufficient cause, to issue a tax invoice, bill or cash memorandum as required under section 86, or

(s) contravenes, without reasonable cause, any of the conditions, subject to which the Certificate of Entitlement is granted, or

(t) fails, without sufficient cause, to comply with any notice in respect of any proceedings,

shall, on conviction, be punished with simple imprisonment for a term which may extend to six months and with fine.

(4) Whoever aids or abets or induces any person in commission of any act specified in sub-section (1) or (2) shall, on conviction, be punished with simple imprisonment which shall not be less than one month but which may extend to one year and with fine and, whoever, aids, abets or induces any person in commission of any act specified in sub-section (3) shall, on conviction, be punished with simple imprisonment which may extend to one month and with fine.

(5) Whoever commits any of the acts specified in sub-sections (1) to (4) and the offence is a continuing one under any of the provisions of these sub-sections, shall, on conviction, be punished with daily fine not less than rupees one hundred during the period of the continuance of the offence, in addition to the punishments provided under this section.

(6) Where a dealer is accused of an offence specified in sub-section (1), (2) or (3), the person deemed to be the manager of the business of such dealer under section 19 shall also be deemed to be guilty of such offence, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission thereof.

(7) In any prosecution for an offence under this section, which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state, but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation. — Culpable mental state includes intention, motive or knowledge of a fact or belief in or reason to believe, a fact and a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.]

1. Section 74 was substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

2. Sub-section(1A) was inserted by Mah Act No.XVof 2011 dated 21st April w.e.f.1st May 2011.

3. This clause was deleted by Mah. Act No. XLII of 2017, dated the 29th May 2017. Prior to deletion this clause was read as under:

“(c) fails, without sufficient cause, to obtain, in lieu of the existing certificate of registration, a fresh certificate of registration when required to do so as provided in sub-section (1) of section 17, or”

Offences by companies

75. Offences by business entity:-

(1) Where an offence under this Act or the rules made thereunder has been committed by a business entity, every person who at the time the offence was committed, was in charge of, and was responsible to, the business entity for the conduct of the business of the business entity as well as the business entity shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act or rules made thereunder has been committed by a business entity and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the business entity, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purpose of this section,-

(a) “business entity” means a body corporate, and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

(3) Where an offence under this Act has been committed by a Hindu Undivided Family, the Karta thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and on conviction, punished accordingly :

Provided that, nothing contained in this sub-section shall render the Karta liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence :

Provided further that, where an offence under this Act has been committed by a Hindu Undivided Family and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any adult member of the Hindu Undivided Family, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and on conviction, punished accordingly.

Cognizance of offences

76. Cognizance of offences:-

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (20 of 1974), all offences punishable under this Act or rules made thereunder shall be cognizable and bailable.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (20 of 1974), a Metropolitan Magistrate or Judicial Magistrate, First Class may, impose on any person found guilty of an offence under section 71, 72 or 74, a punishment as provided in relevant sections.

(3) If any prosecution for an offence under this Act has been instituted in respect of the same facts on which a penalty has been imposed by the Commissioner under section 29 or 61, then if the offence is compounded under section 78 or, in any other case, on conviction as a result of the final proceedings, the Commissioner shall refund to the dealer the amount of penalty paid by him.

Investigation of offences

77. Investigation of offences:-

(1) Subject to such conditions, if any, as may be prescribed, the Commissioner may authorise, either generally or in respect of a particular case or class of cases any officer or person subordinate to him to investigate all or any of the offences punishable under this Act.

(2) Every officer so authorised shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1973 (20 of 1974), upon an officer in charge of a police station for the investigation of a cognizable offence.

Compounding of offences

78. Compounding of offences:-

(1) The Commissioner may, either before or after the institution of proceedings for any offence punishable under section 74 or under any rules made under this Act, after affording the person concerned an opportunity of being heard, accept from any person charged under 1[sub-section (4)] or under any rule, a sum not exceeding two thousand rupees and in any other case a sum not exceeding double the amount of tax which would have been payable in the sale, purchase or turnover to which the offence relates, by way of composition of the offence.

(2) On payment of such sum as may be determined by the Commissioner under sub-section (1), no further proceedings shall be taken against the accused person in respect of the same offence and any proceedings, if already taken, shall stand abated.

1. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Fees on appeal and certain other applications

CHAPTER XIII

MISCELLANEOUS

79. Fee on appeal and certain other applications:-

Notwithstanding anything contained in the Bombay Court-fees Act, 1959 (Bom. XXXV of 1959),-

- (a) any application not otherwise provided for when presented to a prescribed authority for a prescribed purpose or when presented to the Tribunal shall subject to the provisions of clause (b), be charged with such fee not exceeding one hundred rupees, as may be prescribed; and
- (b) an appeal preferred under section 26 1[shall be charged with such fee], not exceeding one thousand rupees, as may be prescribed, if the amount in dispute exceeds rupees one lakh, and any other appeal shall be charged with such fee not exceeding one hundred rupees, as may be prescribed.

1 These words were substituted for the words “shall bear a court fee stamp of such value” by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007 as per Notification No. VAT.1507/CR-57/Taxation-1, dt. 10.8.2007

Application of Sections 4 & 12 of Limitation Act

80. Application of sections 4 and 12 of Limitation Act :-

In computing the period of limitation laid down under sections 25, 26 and 27, the provisions of sections 4 and 12 of the Limitation Act, 1963 (36 of 1963) shall, so far as may be, apply.

Extension of period of limitation in certain cases

81. Extension of period of limitation in certain cases:-

(1) An appellate authority may admit any appeal under section 26 after the period of limitation laid down in the said section, if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within such period.

Explanation.- For the purposes of this section, when an appeal is preferred under section 26 after the period of limitation laid down in that section, the ground that the appellant came to know of any judgment, decision or order of any Court, Tribunal or other authority after the expiry of the period of limitation aforesaid (whether such judgment, decision or order was delivered or made before or after the expiry of that period), shall not be deemed to constitute a sufficient cause for the purposes of this section.

(2) In computing the period of limitation, in respect of any proceedings under this Act, the time during which the proceedings remained stayed under the order of 1[a competent Court or Tribunal] shall be excluded.

1. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005

Appearance before any authority in proceedings

82. Appearance before any authority in proceeding:-

(1) Any person, who is entitled or required to attend before any authority including the Tribunal in connection with any proceeding under this Act, otherwise than when required to attend personally for examination on oath or affirmation, may attend,-

(a) by a relative or a person regularly employed by him or

(b) by a legal practitioner, Chartered Accountant 1[,Cost Accountant or Company Secretary] who is not disqualified by or under sub-section (2), or

(c) by a sales tax practitioner who possesses the prescribed qualifications and is entered in the list which the Commissioner shall maintain in that behalf, and who is not disqualified by or under sub-section (2), or

(d) any person who, immediately before the, commencement of this Act was qualified to appear as a sales tax practitioner under any earlier law and who is not disqualified by or under sub-section (2),

only if such relative, person employed, legal practitioner, Chartered Accountant, Cost Accountant 2[,Company Secretary] or sales tax practitioner is authorised by such person in the prescribed form, and such authorisation may include the authority to act on behalf of such person in such proceedings.

Explanation.- “A person regularly employed” means a person whose salary is regularly and periodically debited and recorded in the books of account of the dealer.

(2) The Commissioner may, by order in writing and for reasons to be recorded therein, disqualify for such period as is stated in the order from attending before any such authority, any legal practitioner, Chartered Accountant, Cost Accountant 2[, Company Secretary] or sales tax practitioner,-

(i) who has been removed or dismissed from Government service, or

(ii) who being a legal practitioner, a Chartered Accountant 3[, a Cost Accountant or a Company Secretary] is found guilty of misconduct in connection with any proceedings under this Act by an authority, empowered to take disciplinary action against the member of the profession to which he belongs, or

(iii) who, being a sales tax practitioner, is found guilty of such misconduct by the Commissioner.

(3) No order of disqualification shall be made in respect of any particular person unless he is given a reasonable opportunity of being heard.

(4) Any person against whom any order of disqualification is made under this section may, within one month of the date of communication of such order, appeal to the Tribunal to have the order cancelled or modified.

(5) The order of the Commissioner shall not take effect until one month of the service thereof or when an appeal is preferred until the appeal is decided.

(6) The Commissioner may, at any time *suo motu* or on an application made to him in this behalf, revoke or modify any order made against any person under sub-section (2) and thereupon such person shall cease to be disqualified subject to such conditions or restrictions that may be contained in such order.

1. These words were substituted for the words “or Cost Accountant” by Mah. Act No. VIII of 2013 dated the 20.4.2013 w.e.f.1st May 2013.
2. These words were inserted after the words “Cost Accountant” by Mah. Act No. VIII of 2013 dated the 20.4.2013 w.e.f.1st May 2013.
3. These words were substituted for the words “or Cost Accountant” by Mah. Act No. VIII of 2013 dated the 20.4.2013 w.e.f.1st May 2013.

Power to make rules

83. Power to make rules :-

(1) The power to make rules under this Act shall be exercisable by the State Government, by notification in the Official Gazette.

(2) Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules generally to carry out the purposes of this Act; and such rules may include rules for levy of fees for any of the purposes of this Act.

(3) Without prejudice to any provision made in this behalf, any rule made under this Act may be made so as to be retrospective to any date not earlier than the appointed day.

(4) Rules made under this section shall be subject to the condition of previous publication :

Provided that, the State Government may, if it is satisfied that circumstances exist which render it necessary for it to take immediate action, it may dispense with the requirement of previous publication of any rule or rules to be made under this section.

(5) In the rules, it may be provided that a breach thereof shall be punishable with fine not exceeding two thousand rupees and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence.

(6) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made and notify such decision in the Official Gazette, the rule shall, from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be; so, however, that, any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

Declaration of stock of goods held on the appointed day

1[84. Declaration of stock of goods held on the appointed date and calling for other information, etc.:-

(1) The Commissioner may, by notification in the Official Gazette, require any class of registered dealers, as may be specified in the notification, to declare the details, to the prescribed authority, regarding capital assets and the stock of

goods held by them on the day immediately preceding the appointed date for the Maharashtra Goods and Services Tax Act.

(2) The Commissioner may, by notification in the Official Gazette, require any class of registered dealers, migrating to the Maharashtra Goods and Services Tax Act to furnish any other information in the prescribed manner.]

1. This section was substituted by Mah. Act No. XLII of 2017, dated the 29th May 2017. Prior to substitution this section read as under:

"84. Declaration of Stock of goods held on the appointed day:-

The Commissioner may, by notification in the Official Gazette, require any class of registered dealers as may be specified in the notification, to declare such details regarding capital assets held by them on the day immediately preceding the appointed day and the stock of goods held by them on the day immediately preceding the appointed day in such manner and with such particulars and to such authority, as he may notify in this behalf."

Bar to certain proceedings

85. Bar to certain proceedings:-

(1) Save as is provided by section 27, no order passed or proceedings taken under this Act, the rules or notification by any authority appointed or constituted under this Act, shall be called in question in any Court, and save as is provided by section 26, 1[***] no appeal shall lie against any such order.

(2) No appeal shall lie against,-

(a) any notice issued under this Act, rules or notifications, or

(b) any summons issued under sub-section (1) of section 14, or 2[a defect notice issued under section 20] or

3[(b-1) an assessment order passed under sub-section (1) of section 23, or;]

4[(b-2) an order levying penalty under sub-section (8) of section 29, or;]

5[(b-3) an order passed under sub-section (2) or (4) of section 30 regarding the interest payable by the dealer under any provision of this Act, or

(b-4) an intimation issued under sub-section (7) of section 63, or;]

(c) any order issued on an application for installment, or

6[(d) any order or notice issued under sub-section (1) or (2) of section 34, or;]

7[(d-1) the order passed under sub-sections (1) and (2) of section 35, or]

(e) an order pertaining to the seizure or retention of books of accounts, registers and other documents, or

8[(f) ***]

(g) any order or assignment under section 59, or

8[(h) ***]

1. an interim order issued in the course of any proceeding not being an order issued under sub-section (6) of ⁹[section 26, or]

¹⁰[(j) any order, published by the Commissioner, by virtue of the powers conferred on him by notification issued under section 26B.]

1. These words, brackets and figures were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

2. These words, brackets and figures were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

3. Clause (b-1) inserted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

4. Clause (b-2) inserted by Mah. Act No. XVII of 2009, dt. 27.6.2009 w.e.f. 1st July, 2009. s.9.

5. Clause (b-3)& (b-4) were inserted by Mah. Act No. XII of 2010, dt. 29.04.2010 w.e.f. 1st May, 2010.

6. Clause (d) substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

7. Clause (d-1) was inserted by Mah. Act No. XII of 2010, dt. 29.04.2010 w.e.f. 1st May, 2010.

8. Clauses (f) & (h) were deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

9. These words and figure substituted for word and figure “section 26.” by Mah. Act No. XXVI of 2018, dated the 31st March 2018 w. e. f. 1.4.2018.

10. This clause was added by Mah. Act No. XXVI of 2018, dated the 31st March 2018 w. e. f. 1.4.2018.

Tax invoice and Memorandum of sales or purchases

86. Tax invoice and Memorandum of sales or purchases:-

(1) If a registered dealer sells any 1[goods, he may] issue to the purchaser a tax invoice containing such particulars as are specified in sub-section (2) and retain a copy thereof for 2[eight years] from the end of the year in which the sale took place.

(2) The tax invoice issued under sub-section (1) shall contain the following particulars on the original as well as on all the copies thereof,-

(a) the words “tax invoice” in bold letters at the top or at any prominent place,

(b) the name, address and registration certificate number of the selling dealer 3[as well as the name and address of the purchasing dealer],

(c) an individual serialised number and the date on which the tax invoice is issued, .

(d) description of the goods, the quantity or as the case may be, number and price of the goods sold and the amount of tax charged thereon indicated separately, and

(e) signed by the selling dealer, or his servant, manager or agent duly authorised by him.

4[(3) When a dealer liable to pay tax under this Act, sells any goods to any person, he shall issue to the purchaser either a tax invoice or a bill or cash memorandum serially numbered, signed and dated by him or his servant, manager or agent and showing therein such other particulars as may be prescribed. He shall keep a counterfoil or duplicate of such bill or cash memorandum duly signed and dated, and preserve it for a period of 2[eight years] from the end of the year in which the sale took place:

Provided that, where the value of the goods sold in a single transaction is rupees fifty or less, then it shall not be necessary to issue the said bill or cash memorandum.]

5[(4) Nothing contained in sub-section (1) or (2) shall apply to a dealer who is paying tax by way of composition under sub-section (1) or (2) of section 42.]

6[(5) Any dealer may apply to the Commissioner to permit him to maintain the records of the bills or cash memorandum on such electronic system as may be approved by the Commissioner. On such permission being granted, the dealer shall stand exempted for the purposes of sub-section (3) regarding keeping counterfoils or duplicates of the said bills or cash memoranda and of signing the bill or cash memorandum..]

7[(6) A registered dealer, shall in respect of every sale made by him issue either a tax invoice or bill or cash memorandum as provided under sub-section (1) or (3).]

1. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

2. These words were substituted for the words “three years” by Mah. Act No. VIII of 2012 dated 25.4.2012 w.e.f.1.4.2005

3. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005 and again these words were substituted for the words “as well as the name and address of the purchasing dealer” by Mah. Act No. XII of 2010, dt. 29.04.2010 w.e.f. 1st May, 2010

4. Sub-section (3) was substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005 **and again** “sub-section (3) was substituted by Mah. Act No. XXV of 2007, dt. 6.8.2007 w.e.f. 15.8.2007 as per Notification No. VAT.1507/CR-57/Taxation-1, dt. 10.8.2007. s.20

“(3) When a registered dealer sells any goods, he may at his option issue to the purchaser a bill or cash memorandum serially numbered, signed and dated by him or his servant, agent or manager and stating therein such other particulars as may be prescribed. He shall keep a counterfoil or duplicate of such bill or cash memorandum duly signed and dated and preserve it for a period of three years from the end of the year in which the sale took place. Where the said registered dealer is issuing a bill or cash memorandum, he shall not collect tax separately on such sale.”

5. Sub-section (4) substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

6. Sub-section (5) substituted and shall be deemed to have been substituted w.e.f. 1st April, 2005 by Mah. Act No. XXXII of 2006, dt. 5.8.2006. s.53. Prior to substituted the “Sub-section (5)” was read as under :-

“(5) The State Government may, by rules provide for such electronic system as may be used, if necessary, in conjunction with such automatic data processing machines, as may be prescribed, for preservation of the details of the bill or cash memorandum for the purposes of sub-section (3) in such form and manner as may be approved by the Commissioner and any dealer may apply to the Commissioner to permit him, subject to such conditions, if any, as may be prescribed, to maintain the record of the bills or cash memoranda on such system. On such permission being granted, the dealer

shall stand exempted for the purposes of said sub-section (3) regarding keeping counterfoils or duplicates of the said bills or cash memoranda and of signing the bill or cash memorandum.”

7. Sub-section (6) added by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

On and after specified dates certain prescribed forms to be obtained from prescribed authority

1[87. *****]

1. This section was deleted by Mah. Act No. XLII of 2017, dated the 29th May 2017. Prior to deletion this section was read as under:

“87. On and after specified dates certain prescribed forms to be obtained from prescribed authority:-

The Commissioner may, from time to time, by notification in the *Official Gazette*, direct that on and after such dates as may be specified therein, the form of any of the certificates or declarations under this Act or any rule or any notification, shall be obtained from the prescribed authority in the prescribed manner subject to the conditions and restrictions that may be specified by him in that behalf.”

Definitions under Chapter XIV

CHAPTER XIV

PACKAGE SCHEME OF INCENTIVES

88. Definitions under Chapter XIV:-

In this chapter, unless the context requires otherwise,-

1. “Certificate of Entitlement” means a certificate issued by the Commissioner in respect of sales tax incentives under the relevant Package Scheme of Incentives;

1[(a-1) “Identification Certificate” means a Certificate issued by the Commissioner to a Mega Unit 1a[and Ultra Mega Unit] covered under the 2[Package Scheme of Incentives-2001, Package Scheme of Incentives-2007 or, as the case may be, Package Scheme of Incentives-2013];

(b) “District Industries Centre” in relation to any eligible unit means the District Industries Centre established by the State Government in a district, in which the concerned Eligible Unit is situated;

(c) “Eligibility Certificate” means a certificate granted by the 3[SICOM or Directorate of Industries] or the relevant Regional Development Corporation or the District Industries Centre concerned or the Maharashtra Tourism Development Corporation or the Maharashtra Energy Development Authority in respect of sales tax incentives under the relevant Package Scheme of Incentives, designed by the State Government;

(d) “Eligible Unit” means the Industrial Unit in respect of which an Eligibility Certificate is issued;

(e) “Package Scheme of Incentives” means the 1979, 1983, 1988 or 1993 Package Schemes of Incentives introduced by the Industries, Energy and Labour Department, the Package Scheme of Incentives for Tourism 1993, 4[Electronic Scheme 1985] and the 5[New Package Scheme of Incentives for projects 1999], introduced by the Home and Tourism Department and the Power Generation Promotion Policy 1998 6[, Package Scheme of Incentives-2001, Package Scheme of Incentives-2007 or, as the case may be, Package Scheme of Incentives-2013] introduced by the Industries, Energy and Labour Department, all as amended, from time to time;

(f) “the Relevant Regional Development Corporation” means,-

(i) in relation to the Vidarbha area of the State, the Development Corporation of Vidarbha Limited, a Government Company registered under the Companies Act, 1956 (1 of 1956);

(ii) in relation to the Konkan revenue division excluding the City of Mumbai and the Mumbai Suburban District, the Development Corporation of Konkan Limited, a Government Company registered under the Companies Act, 1956 (1 of 1956);

(iii) in relation to the Marathwada area of the State, the Marathwada Development Corporation Limited, a Government Company registered under the Companies Act, 1956 (1 of 1956);

(iv) in relation to the rest of Maharashtra, the Western Maharashtra Development Corporation Limited, a Government Company registered under the Companies Act, 1956 (1 of 1956);

(g) “SICOM” means the State Industrial and Investment Corporation of Maharashtra Limited, a Government Company registered under the Companies Act, 1956 (1 of 1956);

(h) “Maharashtra Tourism Development Corporation” means a Government Company registered under the Companies Act, 1956 (1 of 1956);

(i) “Maharashtra Energy Development Authority” means a society registered by the name “the Maharashtra Energy Development Authority” under the Societies Registration Act, 1860 (21 of 1860), under the Societies Registration Act, 1860 (21 of 1860).

1.This clause (a-1) was newly inserted by Mah. Act No. VII of 2011 dated the 3rd April 2011 w.e.f.10.3.2011.

1a. These words were inserted by Mah. Act No. XV of 2016 dated 26.4.2016 w.e.f. 26.4.2016

2. These words were substituted for words “Package Scheme of Incentives-2001 or, as the case may be, Package Scheme of Incentives-2007” by Mah. Act No. XXVII of 2013 dated the 26th June 2014.

3. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

4. These words were inserted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

5. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

6. These words were inserted by Mah. Act No.VII of 2011 dated the 3rd April 2011 w .e. f. 10.3.2011 and again substituted for the words “Package Scheme of Incentives-2001 or, as the case may be, Package Scheme of Incentives-2007” by Mah. Act No. XXVII of 2014 dated the 26th June 2014.

Grant of certificate of Entitlement

89. Grant of 1[Certificate of Entitlement or, as the case may be, Identification Certificate]:-

(1) Where an Eligibility Certificate has been recommended to an Eligible Unit by the implementing agency under any of the Package Scheme of Incentives declared by the State Government, such Eligible Unit may apply for grant of 1[Certificate of Entitlement or, as the case may be, Identification Certificate] to the Commissioner.

(2) Subject to the provisions of this Act, and any rules that may be made in this behalf, the Commissioner shall, if the Eligible Unit satisfies such further requirements as may be prescribed, 2[issue, subject to such conditions, as may be prescribed, to the unit a 1[Certificate of Entitlement or, as the case may be, Identification Certificate]].

3[(3) The invoice issued by a dealer, specified in sub-section (3A), shall contain a prescribed declaration in respect of the goods other than declared goods, covered by the Eligibility Certificate.

(3A) The restrictions specified in sub-section (3) shall be applicable to the following,-

(i) the Mega Unit or, as the case may be, the Ultra Mega Unit, holding a valid Identification Certificate;

(ii) the Very Large Unit or, as the case may be, the Mega Unit, holding a Certificate of Entitlement, availing incentives by way of deferment of payment of tax under the Package Scheme of Incentives, 1993;

(iii) the immediate purchaser or, as the case may be, the subsequent purchasers, purchasing goods, originally manufactured by the dealers mentioned in clauses (i) and (ii).

(4) Where a dealer mentioned in sub-section (3A) fails to incorporate the prescribed declaration applicable to him, the Commissioner shall, after giving a reasonable opportunity of being heard, by order in writing impose upon him, in addition to any tax payable by him, a penalty equal to the amount of tax contained in the said invoice.]

1 These words are substituted by Mah. Act No. VII of 2011 dt. 3rd April 2011. w. e.f. 10.3.211. Earlier this words read as "Certificate of Entitlement.

2 These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

3 Sub-section (3) and (4) were substituted by Mah. Act No. XV of 2016 dated 26.4.2016 w.e.f. 26.4.2016. Prior to substitution, sub-section(3)and (4) were added by Mah. Act No. VII of 2011 dt. 3rd April 2011 w. e. f. 10.3.2011 and these sub-sections read as under:

(3) (a) *An invoice issued by a Mega Unit holding a valid Identification Certificate granted to him by the Commissioner, shall, in respect of the goods other than declared goods covered by the Eligibility Certificate shall contain a declaration as prescribed under the rules made in this behalf.*

(b) *An invoice issued by the immediate purchaser or, as the case may be, the subsequent purchasers, shall, in respect of the sale of the goods, other than declared goods which are originally manufactured by a Mega Unit holding valid Identification Certificate, contain a declaration as prescribed under the rules made in this behalf.*

(4) *Where,-*

(a) *a Mega Unit to whom an Identification Certificate is granted under the *[Package Scheme of Incentives-2001, Package Scheme of Incentives-2007 or, as the case may be, Package Scheme of Incentives-2013]; or*

(b) an immediate purchaser or, as the case may be, the subsequent purchaser who has purchased the goods which are originally manufactured by the Mega Unit to whom an Identification Certificate is issued by the Commissioner,

has failed to incorporate a declaration as prescribed under the rules made in this behalf, in respect of the sales on which the said Unit has claimed Industrial Promotion Subsidy, the Commissioner shall, after giving a reasonable opportunity of being heard, by order in writing impose upon him, in addition to any tax payable by him, a penalty equal to the amount of tax contained in the said invoice.]

*These words were substituted for the words “Package Scheme of Incentives-2001 or, as the case may be, Package Scheme of Incentives-2007” by Mah. Act No. XXVII of 2014 dated the 26th June 2014.

Cancellation of certificate of Entitlement

90. Cancellation of Certificate of Entitlement:-

Notwithstanding anything contained in this Act, the Certificate of Entitlement issued in favour of an Eligible Unit by the Commissioner whether before or after the appointed day, in respect of any Package Scheme of Incentives,—

- (a) shall be deemed to have been automatically cancelled on the date on which,—
 - (i) the incentives including the cumulative quantum of benefits availed whether before or after the appointed day exceed the monetary ceiling fixed for the Eligible Unit; or
 - (ii) the period for which a Certificate of Entitlement was granted to an Eligible Unit, expires; or
 - (iii) the 1[certificate of registration] granted to an Eligible Unit has been cancelled; or
- (b) shall be cancelled by the Commissioner, after giving the Eligible Unit an opportunity of being heard, if it is noticed that the grant of Certificate of Entitlement is inconsistent with any of the provisions of this Act, or, as the case may be, the Bombay Sales Tax Act, 1959 (Bom. LI of 1959) rules or notifications or any provision of the relevant Package Scheme of Incentives 2[or, if the unit contravenes any of the provisions of the relevant Scheme]

1 These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

2 These words were added by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Change in the nature of incentives

91. Change in the nature of incentives:-

(1) Where any Certificate of Entitlement has been granted to any unit under any Package Schemes of Incentives and such unit is entitled to receive benefits for any period which is to end after the appointed day then, notwithstanding anything contained in the said scheme, the benefits shall be availed of only in accordance with this Act, rules and the notifications issued thereunder.

(2) The Commissioner may, notwithstanding anything contained in section 32, in respect of a dealer to whom an Entitlement Certificate for availing of the benefits by way of deferment of Government dues has been granted, extended the date of payment or grant a moratorium for payment of the dues or provide for the payment of dues thereafter in installments, subject to such conditions as may be prescribed.

1[Provided further that, no interest under section 30 shall be payable by a dealer to whom a Certificate of Entitlement has been granted and for whom the due date of payment has been extended, moratorium has been granted or installments have been granted and payments have been made accordingly.]

(3) In order to determine whether the cumulative quantum of benefits received by any dealer to whom an Entitlement Certificate for availing of benefits by way of exemption from payment of Government dues has been granted, has exceeded the relevant monetary ceiling under any Package Scheme of Incentives, the Commissioner shall calculate the cumulative quantum of benefits in the manner prescribed and for this purpose he shall take into account the benefits received, if any, by the said dealer prior to the appointed day.

(4) If it is found that the cumulative quantum of benefits calculated in respect of any dealer has exceeded the relevant monetary ceiling, where such ceiling is provided in the relevant Package Scheme of Incentives, then the Commissioner shall require the dealer by order in writing to pay the tax, interest or penalty in respect of each relevant period and shall for the purposes of recovery of such Government dues, serve on the dealer a notice as provided under section 32 :

Provided that, no order under this section shall be passed without giving the dealer reasonable opportunity of being heard.

(5) Notwithstanding anything contained in this Act, the rules made hereunder or any Package Scheme of Incentives,-

(i) no dealer to whom on 2[Entitlement Certificate other than an Entitlement Certificate granted under the new package scheme of incentives for Tourism Projects, 1999] has been issued, whether in order to avail the benefits by way of deferment or payment or exemption from payment of Government dues, shall be entitled to claim set-off of sales tax in respect of purchases of raw materials effected by the said dealer and for the purposes of this section, the expression “raw materials” shall have the meaning assigned to it in the rules;

(ii) every dealer to whom the 2[Entitlement Certificate other than an Entitlement Certificate granted under the new package scheme of incentives for Tourism Projects, 1999] has been issued, whether in order to avail the benefits by way of deferment of payment or exemption from payment of Government dues shall be entitled to claim in accordance with the rules, refund of sales tax in respect of purchases of raw materials;

(iii) 3[***]

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1 Proviso was added by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

2 These words were substituted for the words “Entitlement Certificate” and shall be deemed to have been substituted w.e.f. 1st April, 2005 by Mah. Act No. XXV of 2007, dt. 6.8.2007. s.21

3. Clause (iii) deleted by Mah. Act No. XIV of 2005, dt. 31st March, 2005 w.e.f 1.4.2005.

Annual ceiling on benefits to be availed of under Package scheme of incentives

92. Annual ceiling on benefits to be availed of under Package Scheme of Incentives:-

(1) Notwithstanding anything to the contrary contained in any of the Package Scheme of Incentives, no Eligible Unit to whom the Eligibility Certificate has been granted shall be eligible to draw the benefits if any year after the appointed day, in respect of the production in excess of the annual production capacity of that unit as may be prescribed by the State Government, having regard to the licensing provisions, as they stood from time to time, under the Industries (Development and Regulation) Act, 1951 (65 of 1951), as applicable during the relevant period, as that Act stood during the relevant time.

(2) The benefits availed of by any Eligible Unit in contravention of sub-section (1) shall be and shall be deemed to have been withdrawn and such Unit shall be liable to pay the tax including penalty and interest in respect of sales or purchases, in so far as they relate to such excess production referred to in sub-section (1).

1[(3) A unit holding a Certificate of Entitlement shall not be entitled to claim or receive any incentives towards,—

(i) a sale made by way of transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract;

(ii) a sale made by transfer of right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.]

1. Sub-section (3) added by Mah. Act No. XIV of 2005, dt. 31-3-2005 w.e.f. 1.4.2005.

Proportionate Incentives to an eligible unit in certain contingencies

93. Proportionate incentives to an Eligible Unit in certain contingencies :-

1(1) Notwithstanding anything to the contrary contained in any Package Scheme of Incentives, any Eligible Unit, to whom the Eligibility Certificate and Certificate of Entitlement have been granted at any time before or after the appointed day, on account of increase in the production capacity or, as the case may be, acquisition of new fixed capital assets, shall be entitled to draw the benefits in any year, only on that part of its turnover of sales or purchases as may be arrived at by applying the provisions of sub-section (1A) to the total turnover of sales and purchases of the said unit in that year.

(1A) In case where the Eligible Unit has, -

1. maintained separate accounts of sales and purchases and is able to identify the sales and purchases pertaining to the increase in the production capacity or, as the case may be, the said eligible investment, then the portion of the turnover eligible for benefits will be decided solely on the basis of such identification;
2. not maintained separate accounts of sales and purchases and is not able to identify the sales and purchases in relation to increase in the production capacity or, as the case may be, the said eligible investment, then such benefits shall be calculated after applying the formulae in sub-clause (i) or, as the case may be, sub-clause (ii) given as under :-

1. in case where there is increase in production capacity, then for the Package Scheme of Incentives for 1988 or, as the case may be, package Scheme of Incentives for 1993, the formulae shall be as below :-

$$\text{Eligible Turnover} = \frac{\text{Turnover} \times \text{Increase in Production capacity}}{\text{Total production capacity after such increase}}$$

- (ii) in case where there is no increase in production capacity, then for the package Scheme of Incentives for 1993, the formulae shall be as below :-

$$\text{Eligible Turnover} = \frac{\text{Turnover} \times \text{New fixed capital investment}}{\text{Total gross fixed capital investments}}$$

(1B) When the eligible turnover comprises of multiple finished products, then,—

1. the production capacity of each of the finished products shall be separately considered in determining the corresponding eligible turnover, and
2. eligible turnover shall relate to those products on which the eligible investment has made impact and when eligible investment does not add to production capacity, then it shall apply to all the finished products.

(2) The benefits, if any, availed of by an Eligible Unit in contravention of sub-section (1), if any, shall be and shall be deemed to have been withdrawn and such unit shall be liable to pay tax including penalty and interest, if any, in respect of the turnover of sales and purchases in excess of the turnover arrived at under sub-section (1) and accordingly any benefit which is so availed shall be recovered as arrears of tax as provided in sub-section (3).

(3) For recovery of arrears of tax, the Commissioner shall require the Eligible Unit, by order in writing, to pay the tax, interest and penalty on such turnover on which the benefits are not available and serve on the dealer, a notice of demand as provided in sub-section (4) of section 32 accordingly:

Provided that, no order under this section shall be passed without giving the Eligible Unit a reasonable opportunity of being.

2[Explanation - For the purpose of this section, the expressions ‘production capacity’, ‘eligible investments’ and ‘gross fixed capital investments’ shall have the same meanings as respectively assigned to them in the relevant Package Scheme of Incentives.]

1. Sub-section (1) was substituted and deemed always to have been substituted by Mah. Act No. XXII of 2009 dt.16.12.2009. Prior to substituted the “sub-section (1)” was read as under:- “(1) Notwithstanding anything to the contrary contained in any Package Scheme of Incentives, any Eligible Unit, to whom the Eligibility Certificate has been granted, shall be eligible to draw the benefits in any year after the appointed day, only on that part of its turnover of sales or purchases as may be arrived at by applying the ratio as may be prescribed by the State Government to the total turnover of sales and purchases of the said unit in that year and different ratios may be prescribed for different classes of units and different schemes.

2. Explanation was added by Mah. Act No. XXII of 2009 dt.16.12.2009 w.e.f. 27.08.2009

Application of provisions of section 93 to certain Eligible Units

1[93A. Application of provisions of section 93 to certain Eligible Units-

The provisions of section 93 shall apply to all the Eligible Units, to whom the Eligibility Certificate and Certificate of Entitlement have been issued under any of the Package Scheme of Incentives,-

1. if such certificates are issued on or before the appointed day, then from the appointed day; and
2. in any other case, from the date of effect mentioned in such Certificates.]

1. Section 93A was inserted by Mah. Act No. XXII of 2009 dt. 16.12.2009 w.e.f. 27.08.2009

Deemed payment

94. Deemed payment:-

(1) Notwithstanding anything contained in this Act, rules or notifications, but subject to such conditions as the Commissioner may, by general or special order in the Official Gazette, specify, where a dealer to whom incentive by way of deferment of 1[sales tax or purchase tax liability] under any of the Package Schemes of Incentives designed by the State Government, have been granted by virtue of the Eligibility Certificate, and where a loan liability equal to the amount of any such tax payable by such dealer has been raised by 2[the SICOM or the Directorate of Industries] or the relevant Regional Development Corporation or the District Industries Centre concerned or the 3[***], then such tax shall be deemed, in the public interest, to have been paid.

(2) Notwithstanding anything to the contrary contained in the Act or in the rules or in any part of the Package Scheme of Incentives the Eligible Unit to whom an Entitlement Certificate has been granted for availing of the incentives by way of deferment of sale tax or purchase tax, as case may be, may, in respect of any of the periods during which the said certificate is valid, at its option, prematurely pay in place of the amount of tax deferred by it, an amount equal to the net present value of the deferred tax, as may be prescribed, and on making such payment, the deferred tax shall be deemed in the public interest to have been paid.

1. These words were substituted by Mah. Act No. XIV of 2005, dt. 31-3-2005 w.e.f. 1.4.2005 and again substituted by Mah. Act No. VIII of 2012 25.4.2012 w.e.f. 1.5.2012.

2. These words were substituted by Mah. Act No. XIV of 2005, dt. 31-3-2005 w.e.f. 1.4.2005.

3. These words were deleted by Mah. Act No. XIV of 2005, dt. 31-3-2005 w.e.f. 1.4.2005.

Repeals

CHAPTER XV

REPEALS AND SAVINGS

95. Repeals:-

(1) The following laws are hereby repealed, namely:-

(a) The Bombay Sales of Motor Spirit Taxation Act, 1958 (Bom. LXVI of 1958),

(b) The Bombay Sales Tax Act, 1959 (Bom. LI of 1959),

1[(c) ***]

(d) The Maharashtra Sales Tax Act, 1979 (Mah. XVII of 1979),

(e) The Maharashtra Sales Tax on the Transfer of the Right to use any Goods for any purpose Act, 1985 (Mah. XVIII of 1985), and

(f) The Maharashtra Sales Tax on the Transfer of Property in Goods involved in the Execution of Works Contract (Re-enacted) Act, 1989.

(2) Subject to the provisions contained in sub-section (1) of section 3 and sub-section (1) of section 96, every registration certificate and licence granted under any of the earlier laws shall stand cancelled with effect from the appointed day and shall be returned to the assessing authority for defacement within a period of three months from the appointed day. The assessing authority shall deface its own copy of the said certificate or licence as also the copy returned to it and after defacement return the defaced copy to the previous holder of the certificate or licence.

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1. Clause (c) was deleted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Savings

96. Savings:-

(1) Notwithstanding the repeal by Section 95 of any of the laws referred to therein,-

(a) those laws (including any earlier law continued in force under any provisions thereof), and all rules, regulations, orders, notifications, forms, certificates and notices, appointments and delegation of powers issued under those laws and in force immediately before the appointed day shall, subject to the other provisions of this Act, in so far as they apply, continue to have effect after the appointed day for the purposes of the levy, returns, assessment, reassessment, appeal, determination, revision, rectification, reference, limitation, production and inspection of accounts and documents and search of premises, transfer of proceedings, payment and recovery, calculation of cumulative quantum of benefits, exemption from payment of tax and deferment of due date for payment of tax, cancellation of the certificate of Entitlement, collection, or deduction of tax at source, refund or set off of any tax withholding of any refund, exemption from payment of tax, collection of statistics, the power to make rules, the imposition of any penalty, or of interest or forfeiture of an sum where such levy, returns assessment, re-assessment, appeal, determination, revision, rectification, reference, limitation, payment and recovery, calculation of cumulative quantum of benefits, exemption from payment of tax and deferment of due date for payment of tax, cancellation of the certificate of entitlement, collection, deduction of tax at source, refund, set-off, withholding of any refund exemption, collection of statistics, the power to make rules, limitation, production and inspection of accounts and documents and search of premises, transfer of proceedings, penalty, interest or forfeiture

of any sum relates to any period ending before the appointed day, or for any other purpose whatsoever connected with or incidental to any of the purposes aforesaid and whether or not the tax, penalty, interest, sum forfeited or tax deducted at source, if any, in relation to such proceedings is paid before or after the appointed day;

1[(a-1) where all the statements pertaining to any year ending on or before the 31st March 2004 are filed by the licensed trader on or before the 30th September 2004 and an order of assessment under sub-section (3) or (4) of section 6 of the Bombay Sales of Motor Spirit Taxation Act, 1958 (Bom. LXVI of 1958) is not made before the 31st March 2007, the Collector may make such order of assessment before the 31st March 2008.]

2[(a-2) where all the statements pertaining to any year commencing on or after the 1st April 2002 and ending on or before the 31st March 2004, are filed by the licensed trader on or before the 30th September 2004 and an order of assessment under sub-section (3) or (4) of section 6 of the Bombay Sales of Motor Spirit Taxation Act, 1958 (Bom. LXVI of 1958), is not made before the 31st March 2008; the Collector may make such order of assessment before the 31st March 2009;

(a-3) where all the statements pertaining to the year commencing on or after the 1st April 2004 and ending on the 31st March 2005, are filed by the licensed trader on or before the 30th September 2005 and an order of assessment under sub-section (3) or (4) of section 6 of the Bombay Sales of Motor Spirit Taxation Act, 1958 (Bom. LXVI of 1958), is not made before the 31st March 2008, the Collector may make such order of assessment before the 31st March 2010;

(a-4) in respect of the returns relating to any period commencing on or after the 1st April 2002 and ending on the 31st March 2004, an order of assessment under sub-section (3) or (4) of section 33 of the Bombay Sales Tax Act, 1959 (Bom. LI of 1959), may be made on or before the 31st March 2009 ; and in respect of returns relating to any period commencing on or after the 1st April 2004, an order of assessment under sub-section (3) or (4) of the said section 33 may be made on or before the 31st March 2010.]

(b) any registration certificate issued under the Bombay Sales Tax Act, 1959 (Bom. LI of 1959), being a registration certificate in force immediately before the appointed day shall, in so far as the liability to pay tax under sub-section (1) of section 3 of this Act exists, be deemed on the appointed day to be the certificate of registration issued under this Act, and accordingly the dealer holding such registration certificate immediately before the appointed day, shall, until the certificate is duly cancelled under this Act, be deemed to be a registered dealer liable to pay tax under this Act and all the provisions of this Act shall apply to him as they apply to a dealer liable to pay tax under this Act;

(c) any registration certificate or licence issued under any of the earlier laws other than the Bombay Sales Tax Act, 1959 (Bom. LI of 1959), which is in force immediately before the appointed day, to a person who does not hold a certificate of registration under the Bombay Sales Tax Act, 1959 (Bom. LI of 1959), immediately before the appointed day shall, in so far as the liability to pay tax under sub-section (1) of section 3 exists, be deemed on the appointed day to be the certificate of registration issued under this Act till the prescribed time provided under the third proviso to sub-section (1) of section 16 expires and accordingly the person holding such registration certificate shall be deemed to be a registered dealer under this Act till the expiry of such time and accordingly all the provisions of this Act shall apply to him as they apply to a dealer liable to pay tax under this Act 3[and subject to the provisions of this Act, all registrations and licences granted under any earlier law shall stand cancelled on the appointed day;]

4[(d) if any person or dealer has applied for registration under earlier law, before the appointed day but the registration certificate has not been granted before the appointed day or where any dealer who has become liable to pay tax under earlier law before the appointed day applies within the time provided for such application under earlier law but the application is made after the appointed day, then a registration certificate as provided under earlier law shall be duly granted to such person or dealer and for the purposes of all the provisions of this Act including the provisions contained in section 3, such person or dealer shall be deemed to be holding a valid certificate of registration which

is in force immediately before the appointed day and all the provisions of this Act shall apply accordingly;]

(e) 5[(i)] where any person or any dealer liable to pay tax under the Bombay Sales Tax Act, 1959 (Bom. LI of 1959) holds in stock on the appointed day, any goods purchased by him from a person who was not a dealer under that Act or a dealer who was not a Registered dealer under that Act, then such person or dealer shall be liable to pay purchase tax on the purchase price of such goods under that Act, as if he had become liable to pay purchase tax under section 13 of that Act at the relevant rates of purchase tax and, the said dealer or person shall accordingly disclose such turnover and pay such tax in the last return required to be filed by him under the Bombay Sales Tax Act, 1959 ;

6[(ii) where any person or dealer liable to pay tax under the Bombay Sales Tax Act, 1959 (Bom. LIX of 1959) has purchased any goods at any time before the appointed day under a certificate or declaration given by him under section 8A, 11, 12 or 41 of the said Act and the conditions, recitals or undertakings of such certificate or declaration are not complied at any time after the appointed day, such dealer shall be liable to pay under the Bombay Sales Tax Act, 1959 (Bom. LIX of 1959), the purchase tax on the purchase price of such goods and the purchase tax shall be levied at the rate set against each of such goods in column (4) of Schedules B and C appended to the said Act; and according, he shall file a return with the prescribed authority in the prescribed form in respect of the period in which the goods were purchased and shall include the purchase price thereof in the said return and shall file such return within one month of the end of the month in which such liability arises and pay the tax due as per the return before filing such return:

Provided that, where purchase tax is payable by a dealer or person under this clause by reason of the fact that he has failed to comply with the conditions, recitals or, undertakings of a declaration or certificate issued under section 8A, 11, 12 or 41 of the said Act within nine months of the appointed day, then an amount equal to the tax paid or payable under section 11, 12, 13A or, as the case may be, section 41, shall be set-off against the purchase tax so payable;]

(f) where any dealer liable to pay tax under the Bombay Sales Tax Act, 1959 (Bom. LI of 1959), or, as the case may be, under the Maharashtra Sales Tax on the Transfer of the Right to use any Goods for any purpose Act, 1985 (Mah. XVIII of 1985), has at any time before the appointed day effected any sale by delivery of goods on the hire purchase or any system of payment by installments or, as the case may be, by transfer of the right to use any goods for any purpose (whether or not for a specified period) and any amount of sale price in respect of such delivery or transfer is due and payable after the appointed day, then unless the full tax pertaining to such delivery or transfer has been admitted or paid before the appointed day, the said amounts shall be shown by the said dealer in the appropriate returns to be filed under this Act and the 7[tax due on such amounts at the rates applicable under this Act] shall be paid accordingly and all the provisions of this Act shall apply to the said dealer, delivery or transfer and the said amounts accordingly, notwithstanding that the delivery or transfer has taken place before the appointed day :

Provided that, the liability of the said dealer to pay tax under this Act, in respect of the sale price due and payable after the appointed day, shall not exceed the liability which would have accrued under the repealed Acts, if they had continued to be in force;

8[(g) where a dealer registered under the Maharashtra Sales Tax on Transfer of Property in Goods involved in the Execution of Works Contract (Re-enacted) Act, 1989, is liable to pay tax under this Act, and has at any time prior to the appointed day entered into any works contract and the execution of the said works contract has started before the appointed day and has continued thereafter, then such dealer shall pay tax in respect of the said contract in accordance with the provisions of the Maharashtra Sales Tax on Transfer of Property in Goods involved in the Execution of Works Contract (Re-enacted) Act, 1989, without however claiming set-off on the purchases corresponding to the contract effected on or after the appointed day to which he would have been entitled under the provisions of this Act.]

(2) Without prejudice to the provisions contained in the foregoing sub-section and subject section 7 of the Bombay General Clauses Act, 1904 (Bom. I of 1904), shall apply in relation to the

repeal of any of the laws referred to in Section 95 as if the law so repealed had been an enactment within the meaning of Section 7 of the said Act.

1. Clause (a-1) inserted and shall be deemed to have been inserted w.e.f. 1st April, 2005 by Mah. Act No. VI of 2007, dt. 30-3-2007.

2. Clauses (a-2) to (a-4) were inserted by Mah. Act No. VIII of 2008, dt. 31-3-2008.

3. This Portion was added by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

4. Clause (d) substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

5. Clause (e) renumbered as “sub-clause (i)” by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

6. Sub-clause (ii) was added by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

7. These words were substituted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

8. Clause (g) was substituted and shall be deemed to have been substituted w.e.f. 1st April, 2005 by Mah. Act No. XXXII of 2006, dt. 5.8.2006. Prior to substituted the “Clause (g)” was read as under :-

“(g) where a dealer registered- under the Maharashtra Sales Tax on the Transfer of Property in Goods involved in the execution of Works Contract ([Re-Enacted]) Act, 1989 (Mah. XXVI of 1989), is liable to pay tax under this Act, and has at any time prior to the appointed day entered into any works contract and the execution of the said works contract has continued after the appointed day, then the liability of the dealer to pay tax under this Act *[shall be discharged at the rates applicable under this Act, and the liability so discharged], in respect of the said contract shall not exceed the liability which would have accrued under the repealed Acts if it had continued to be in force and in the case of a dealer who had opted for composition of tax under the repealed Act, the liability under this Act in respect of a contract where the execution has started before the appointed day and has continued thereafter shall not exceed the sum which would have been payable by way of composition in respect of the said contract under the repealed Acts if it had continued to be in force.

*. These words were inserted by Mah. Act No. XIV of 2005, dated the 31st March, 2005 w.e.f. 1.4.2005.

Construction of references in any repealed law to officers, authorities, etc.

97. Construction of references in any repealed law to officers, authorities, etc.:-

Any reference in any provision of any law now repealed by this Act to an officer, authority or Tribunal shall for the purpose of carrying into effect the provisions contained in Section 96 be construed as reference to the corresponding officer, authority or Tribunal appointed or constituted by or under this Act; and if any question arises as to who such corresponding officer, authority or Tribunal is, then the matter shall be referred to the State Government and the decision of the State Government thereon shall be final.

Removal of difficulties

98. Removal of difficulties:-

(1) If any difficulty arises in giving effect to the provisions of this Act, including the provisions contained in section 96, the State Government may, by general or special order published in the *Official Gazette*, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty. In particular and without prejudice to the generality of the foregoing power, any such order may provide for the adaptations or modifications subject to which any earlier law shall apply in relation to the proceedings in respect of the year ending immediately before the appointed day:

Provided that, no order under this section shall be made after the expiry of a period of two years from the appointed day.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature.